MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS

Seventy-fourth Session
April 3, 2007

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara K. Cegavske at 1:42 p.m. on Tuesday, April 3, 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:

Senator Dean A. Rhoads, Rural Nevada Senatorial District

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Janine Hansen, Independent American Party; Nevadans for Sound Government
Lynn Chapman, Vice President, Nevada Eagle Forum
John L. Wagner, The Burke Consortium
David K. Schumann, Nevada Committee for Full Statehood
Joseph A. Turco, American Civil Liberties Union of Nevada

Sabra Smith-Newby, Clark County
Claire Jesse Clift, Secretary of the Senate
Nicole Lamboley, Chief Deputy, Office of the Secretary of State

CHAIR CEGAVSKE:
I open this meeting with Senate Joint Resolution (S.J.R.) 3 and Senate Bill (S.B.) 549.

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

SENATE BILL 549: Makes various changes to provisions governing certain petitions. (BDR 24-1382)

SENATOR DEAN A. RHOADS (Rural Nevada Senatorial District):
Senate Joint Resolution 3 is a resolution to reestablish a requirement that signatures on statewide initiative petitions be gathered in more than one area of Nevada. Senate Bill 549 is companion legislation to S.J.R. 3 that sets forth related signature verification provisions, adds a statutory signature distribution requirement and provides guidance and assistance to petition circulators and county election officers.

Nevada is one of 24 states that offer initiative and referendum. Prior to August 2004, Nevada was one of ten states to require a "geographic distribution" signature requirement for statewide initiative petitions whereby signatures had to be gathered in 75 percent of Nevada's counties. In other words, 13 out of 17 counties. It was long believed this requirement served to protect the interests of rural Nevada by requiring at least some signatures to be gathered in rural counties. In a 2004 challenge to this provision, U. S. District Court Judge for the District of Nevada James C. Mahan agreed with plaintiffs who argued that requiring the collection of signatures in different areas of the state gave added weight to voter signatures in rural areas and diminished the relative weight of voter signatures in urban centers. In making his ruling, Judge Mahan relied upon an earlier U. S. Court of Appeals for the Ninth Circuit ruling that similar signature requirements in the state of Idaho were unconstitutional. In Idaho, the geographic distribution signature provision required petition sponsors to include signatures of at least 6 percent of qualified electors from each of Idaho's 22 counties. The judge's ruling in the Idaho case stated that

this requirement "effectively gives rural voters preferential treatment" in the statewide petition process. The ruling in the Nevada case was essentially based on the same premise set forth in the Idaho case.

Senate Joint Resolution 3 clearly addresses concerns raised in the Idaho and Nevada cases by providing a petition signature requirement based on Assembly districts, which are required to be apportioned on an equal population basis. The Ninth Circuit in the Idaho case suggested that setting a geographic signature distribution based on legislative districts would, in fact, be constitutional. Idaho could achieve the same end through a geographic distribution requirement that does not violate equal protection by basing any such requirement on existing state legislative districts. This proposed amendment gives some voice to rural communities in Nevada—which is my ultimate goal—while still satisfying the constitutional concerns raised in the Idaho and Nevada cases. The state of Montana also had a geographic signature distribution requirement based on counties. However, a Montana court ruled it unconstitutional and the Montana Attorney General deemed the original signature distribution, based on legislative districts, as a suitable alternative.

In changing to a signature distribution requirement based on Assembly districts, we needed a companion bill to address several issues including circulating petitions in Clark County which contains 29 Assembly districts, verifying signatures and handling the circulation of petitions in multicounty Assembly districts. I requested S.B. 549 to specifically address these matters to ease the burden on both petition proponents and county election officials. There are several technical changes proposed to chapter 293 of *Nevada Revised Statutes* (NRS) to accomplish this. In addition, I believe that shifting to this signature distribution requirement as quickly as possible—by the 2008 election cycle—will best serve the interests of all Nevadans. Therefore, S.B. 549 provides a statutory framework for these signature requirements until S.J.R. 3 goes into effect in November 2010.

It is important to note S.J.R. 3 and S.B. 549 are not efforts to eliminate Nevada's initiative and referendum provisions or discredit the merits of the process. Senate Joint Resolution 3 and S.B. 549 simply recognize that, since the "13 out of 17" requirement has been deemed unconstitutional, Nevada needs to retain a constitutionally sound geographic distribution signature requirement that includes all voters on an equal basis while not cutting out the voice of rural Nevada residents. I will leave you with an example of what could

happen if there is no signature distribution requirement. About ten years ago, in the state of Montana, a petition was circulated in the most urban areas of the state. The petition called for elimination of a common form of "heap leaching" used by the hard rock mining industry. After proponents secured virtually all the signatures in Montana's urban centers—without regard to rural areas most affected by mining—the petition qualified for the ballot. Despite a valiant effort by the mining industry to address the concerns set forth in the petition, the voters approved the proposal and mining is now virtually nonexistent in Montana. A similar effort in Nevada would destroy our rural economies. If Nevada fails to adopt this proposed amendment, or at least maintain some form of geographic distribution for initiative petition signatures based on equal population, I fear many of the vital industries critical to rural Nevada's survival will be jeopardized.

MICHAEL J. STEWART (Principal Research Analyst):
I must disclose that I serve in a nonpartisan position within the Legislative Counsel Bureau (LCB). I am here to present the technical aspects of S.J.R. 3 and S.B. 549. Senate Joint Resolution 3 proposes to remove the 13 out of 17 signature requirement and replace it with a requirement that initiative petitions must be signed by a number of registered voters from each Assembly district equal to 4 percent of the population in that district. It requires that Assembly district population be based on the last U.S. Census Bureau's National Decennial Census. The 2000 Census shows each Assembly district contains an average of 47,578 residents. Therefore, under this proposal, petition circulators would be required to gather approximately 1,900 signatures in each district. This represents a statewide signature total of about 79,000. In comparison, during the 2006 election cycle, 83,184 signatures were required for statewide initiative petitions. If this Committee approves S.J.R. 3, the provisions would appear on the 2010 general election ballot and become effective at the end of November 2010.

Sections 8 through 11 of S.B. 549 propose to amend chapter 295 of NRS. Section 11 states that the Secretary of State shall by regulation specify that each initiative petition include a space for each registered voter to indicate the Assembly district in which he or she resides. Section 10 addresses when a petition is filed initially with the Secretary of State, the Secretary of State must provide petitioners with a current list of registered voters in the state that indicates in which Assembly district those voters reside. In addition, the Secretary of State must provide a map indicating the boundaries of each

Assembly district. Section 10, subsection 4 states the Secretary of State may charge a fee in the amount not to exceed the actual cost of producing the list and maps. Section 9 states that when a circulator receives the list and map, they shall carry them while circulating the petition. Section 8 would put the signature distribution requirement immediately into NRS so there would be guidance for the 2008 election cycle. It also specifies when signing a petition, the registered voter must indicate the Assembly district in which he or she resides. The voter may consult the list of registered voters and the map as well. After that, there is a signature verification when the petition is submitted for verification with each county.

CHAIR CEGAVSKE:
Could we go back to section 8, subsection 3? Why would a circulator be prohibited from writing in the Assembly district for a registered voter?

MR. STEWART:
The responsibility would be on the signer to look at the list and map. This is so the circulator does not feel responsible for filling in the Assembly district for that voter.

CHAIR CEGAVSKE:
You would have to have the map and show the voter where they are. Most people do not know their Assembly or Senate district. I was curious about the rationale for that.

MR. STEWART:
Theoretically, if the circulator carries the list of other registered voters, the statewide voter registration list indicates the Assembly district in which each voter resides. After that process is finished, there is a signature verification process. What S.B. 549 does is insert Assembly districts into the signature verification process. Section 1 is the definition of Assembly district and section 2 is transitory language. Section 3 relates to the raw count done when a petition is first submitted to county clerks. In addition to providing the total number of signatures on a petition, county clerks must tally the number of signatures from each Assembly district contained fully or partially within that county. Section 4, subsection 1 makes reference to tallying the number of signatures in the county by legislative district in advance of the signature verification. Section 4, subsection 4 addresses that when the county clerk verifies signatures, he or she may use the statewide voter registration list to do

that because the list includes the Assembly district of each voter. Section 4, subsection 5 specifies there is a certification of verification process that each county must complete. As part of that, they must certify a total tally to the Secretary of State. This brings in the Assembly district tally as part of the certification that is submitted to the Secretary of State. Section 4, subsection 8 states that the Secretary of State shall by regulation establish further procedures regarding this. There was concern regarding a multicounty Assembly district. Senator Rhoads thought it was best to have the Secretary of State address this. It is a complicated formula that might be difficult for a statutory scenario. Section 5 deals with more issues concerning voter verification. Section 5, subsection 3 does the same thing as it relates to certification of those signatures to the Secretary of State prior to determining whether the petition is sufficient. Section 6 also folds in Assembly district references when the total number of signatures is between 90 percent and 100 percent. Section 6, subsection 4 requires a certification process if there is a result from the signature verification where there might not be 90 percent to 100 percent. This folds that in as well and also states that the county clerk shall comply with regulations adopted by the Secretary of State to complete that certificate for verification.

CHAIR CEGAVSKE:
Could you go over section 6, subsection 2 again?

MR. STEWART:
Section 6 addresses a situation if a petition signature is turned in to the county and they do a raw count which finds the number of signatures required is between 90 percent and 100 percent of the total number, the Secretary of State may order the county clerk to re-verify those signatures to make sure there is enough to declare the petition sufficient. If the Assembly district is comprised of more than one county, those regulations would apply in providing the county clerk some direction on how to verify in that instance.

CHAIR CEGAVSKE:
Will the fiscal impact be on the Secretary of State?

MR. STEWART:
I am not sure where the fiscal impact will be quantified. The Secretary of State will be required to provide each circulator with a copy of the statewide voter

registration list and maps of the legislative districts. The Secretary of State could charge for those.

CHAIR CEGAVSKE:
We will ask the Secretary of State's Office if they decide to testify.

SENATOR RAGGIO:
Those who oppose S.B. 549 and S.J.R. 3 will do so because it will be more cumbersome for circulators. Suppose we use Senate districts instead of Assembly districts. That would be half the number of petition areas required and you would have to obtain 3,800 signatures in each district. Would that still meet the concerns of Senator Rhoads?

SENATOR RHOADS:
Two years ago I had a bill similar to these; we eliminated the Senate districts because we did not know how people could identify their Senate district.

MR. STEWART:
Senator Rhoads wanted to begin with the smallest equal population district as possible to spread the opportunity for rural areas to participate. The smallest geographic area we could find was best represented with Assembly districts.

SENATOR RAGGIO:
You could go down to precincts, but that would be too cumbersome.

BRENDA J. ERDOES (Legislative Counsel):
The issue with Senate districts is some are multimember districts. That was the reason we thought it was problematic.

JANINE HANSEN (Independent American Party; Nevadans for Sound Government):
We oppose S.B. 549 and S.J.R. 3 because the logistics make petitioning impossible. We supported the 13-county rule. It is important to petition in more than one area. When we petition, we try to do it in as many counties as possible. We would need a wheelbarrow to carry around the statewide voter registration list if we are required to have possession of it in paper form. Section 8, subsection 3 of S.B. 549 mentions that a circulator of a petition shall not write the Assembly district for a registered voter on the petition. If an uninformed voter did not have 20 minutes to look through the statewide voter list, how can they put their district on the petition? This process makes

petitioning cumbersome. This is logistically impossible. We will have the statewide voter list, maps and 42 clipboards. Shall we bring a truck to carry all this while petitioning? Seven Assembly districts are multicounty. If we are trying to gather petitions in one county, we must turn them into that county. That causes a logistical problem in trying to separate those and get each county to add up into the total count. Using Senate districts would be better than Assembly districts. Senate Bill 549 and S.J.R. 3 destroy the right to petition because they make the act of petitioning logistically impossible.

CHAIR CEGAVSKE:
Do you have a recommendation or amendment to bring forward to the Committee?

MS. HANSEN:
We support the use of Congressional Districts or Senate districts rather than Assembly districts.

SENATOR BEERS:
It does not make sense the Judicial Branch is able to find problems with the Legislative Branch. The end result is not a change in governance, it is merely the opportunity for citizens to go to the poll and make a decision.

MS. ERDOES:
If the question is whether we can do that, yes we could. We would be willing to do the research to make a bill stand up to the 13-county rule. If you wanted to put it in NRS, you could do that as well.

SENATOR BEERS:
Judge Mahan looked at the Ninth Circuit as having upheld their decision. What we are suggesting is arguing with the Ninth Circuit's decision and finding that a citizen's right to due process is left unprotected by requiring only some of the counties instead of all of the counties.

SENATOR HARDY:
I am not sure any challenge to the 13-county rule is possible. I understand that petitioning could be logistically difficult. However, democracy is difficult as well. When the right to petition challenges the right to vote, it must yield to voting. The Legislature needs to have discussions about how to be more inclusive in

this process instead of discussing how to make it easier. I support the concepts proposed by S.B. 549 and S.J.R. 3.

CHAIR CEGAVSKE:
We can change the NRS or the *Constitution of the State of Nevada*. What happens if both S.B. 549 and S.J.R. 3 are passed by the Legislature and struck down by the courts?

MS. ERDOES:
The process would start over and we would have the laws we have now.

CHAIR CEGAVSKE:
Can either of these bills be challenged?

MS. ERDOES:
They could be challenged, but I do not think it would be successful because these issues have been upheld in other areas.

SENATOR RAGGIO:
If we utilize Senate districts instead of Assembly districts, how many multidistrict areas would exist?

CHAIR CEGAVSKE:
There would be two multidistrict areas.

SENATOR RAGGIO:
If we processed S.B. 549 and utilized Senate districts, we could identify those portions of the districts that would constitute two areas for signatures. Senate districts are not all conterminous with Assembly districts.

MS. ERDOES:
That is correct. You need to provide some method to do that.

CHAIR CEGAVSKE:
Senator Rhoads looked at using the Senate districts first and thought using the Assembly districts would be easier. I agree with Senator Raggio. If we use Senate districts, there would only be two areas that overlap.

SENATOR RAGGIO:
Using Senate districts makes petitioning less cumbersome.

SENATOR HARDY:
I would have no objection using Senate districts as opposed to Assembly districts.

MS. ERDOES:
Senator Rhoads asked to use Assembly districts because they are smaller. There is an advantage for rural representation by using the Assembly districts.

MS. HANSEN:
I am not sure what Senator Hardy meant about the right of voting versus petitioning. Everyone can vote when something is on the ballot. We need to find a better way to petition.

SENATOR Hardy:
I view having an inability to participate in deciding what goes on a ballot as a form of disenfranchisement.

SENATOR BEERS:
If I move between districts, can I not participate in the petition process?

CHAIR CEGAVSKE:
If you are not on the statewide voter list?

SENATOR BEERS:
Yes, if I sign today and tomorrow I move to another district and change my registration, will my signature be invalid?

MS. ERDOES:
You may want to check with the Secretary of State's Office. What I understand is that it was where you were registered on the date you signed it.

MS. HANSEN:
If only the signer can fill in the Assembly or Senate district, that would put circulators in a difficult position.

LYNN CHAPMAN (Vice President, Nevada Eagle Forum):
The petitioning process will become cumbersome if we must carry a multitude of clipboards and other materials explained in S.B. 549 and S.J.R. 3.

JOHN L. WAGNER (The Burke Consortium):
We oppose S.B. 549 and S.J.R. 3 as they are written. Using Senate districts make more sense because it is closer to the No. 17. People who sign petitions are in a hurry most of the time. Senate Bill 549 and S.J.R. 3 will make the petitioning process cumbersome and difficult for petitioners.

DAVID K. SCHUMANN (Nevada Committee for Full Statehood):
There is no reason to have a signer identify their Assembly district. Senate Bill 549 and S.J.R. 3 will eliminate the right to gather petitions in Nevada. I would support replacing the use of Assembly districts with Senate districts as well.

JOSEPH A. TURCO (American Civil Liberties Union of Nevada):
The American Civil Liberties Union (ACLU) is neutral on S.B. 549 and S.J.R. 3. We prefer that any change be done through a constitutional amendment rather than changing NRS. We support using congressional districts as well instead of Assembly and Senate districts. The petition process gets grassroots groups involved to make law of which the Legislature may not. The petition process is good for democracy.

CHAIR CEGAVSKE:
What would using Congressional Districts do to rural areas?

MS. ERDOES:
If you are asking about constitutionality, Congressional Districts would be upheld but probably not serve the rural areas well.

SABRA SMITH-NEWBY (Clark County):
We had concerns with S.B. 549 and S.J.R. 3 and spoke with Senator Rhoads about them. Our question was how petition groups will submit petitions—by Assembly district, county or state? How can the raw count be determined? Who is responsible for determining the required number of signatures by Assembly district? How would shared Assembly districts in rural areas be handled?

CHAIR CEGAVSKE:
Please tell Larry Lomax the Committee would appreciate any further input concerning this issue.

SENATOR HORSFORD:
Section 8, subsection 1 of S.B. 549 says "equal to 4 percent or more of the population of each assembly district in the State." Why are we using that language if the requirement is for registered voters and not residents?

MR. STEWART:
The courts wanted to make sure it was based on an equal population issue. If you looked at turnout of registered voters or something that is not quantified as an equal population issue, voter turnout varies by Assembly district. The thinking was if it is based on a set population identified by the U.S. Census, that would be constitutionally sound.

SENATOR HORSFORD:
But the individuals who sign the petition must be registered voters. You cannot qualify with 4 percent unless it is at least 4 percent of registered voters.

MR. STEWART:
That is correct.

SENATOR HORSFORD:
Do we need to say that or is it implied? The way I read it, it begs the question can you qualify a petition with 4 percent or more of the residents of an Assembly district who may or may not be registered voters? Our intent is that they are registered, but it is not written.

MS. ERDOES:
Another section requires signatures to be from registered voters; if it is helpful, we could add that.

SENATOR RHOADS:
Senator Mark E. Amodei and Senator Mike McGinness sponsored S.B. 549 with me. We would prefer the use of Assembly districts but would agree to use Senate districts if that is what the Committee decides.

CHAIR CEGAVSKE:
I close the hearing on S.B. 549 and S.J.R. 3 and open the discussion on S.B. 490.

SENATE BILL 490: Revises provisions governing the prefiling, reprinting and transmittal of bills and resolutions. (BDR 17-789)

MS. ERDOES:
Most of these suggestions came from Claire J. Clift, Secretary of the Senate. We are deleting things that conflict with the manner in which the Legislature chooses to operate. Instead of putting something else in, we thought it was better to delete the information. We decided to delete subsection 3 of section 1 in S.B. 490. We did this because when the Supreme Court of Nevada brought over its bills, there were a number of them that were not going to the Judiciary Committees by their schedules. I saw this as a conflict between Senate Standing Rule No. 40 and this provision. For example, the Nevada Supreme Court request concerning interpreters for the hearing impaired, under Senate Rule 40, went to the Senate Committee on Commerce and Labor. Senate Bill 490 would have directed it to the Senate and Assembly Judiciary Committees.

CLAIRE JESSE CLIFT (Secretary of the Senate):
Each interim I look at our Standing Rules and statutes to see if we are current with our practices and customs. These are four proposed changes I felt needed to be addressed during the 74th Session. The first change in section 2, subsection 2, paragraph (d) of S.B. 490 has to do with prefiled bills and how we refer them to committee prior to session. Senate Standing Rule No. 40 is revised after the general election. We go through new chapters added and make suggestions as to the committees of referral. I also review the Senate journals to determine which bills previously had a suspension of Standing Rule 40 and were referred again to a different committee or mistakenly referred to a committee and subsequently referred to another committee. Based on those types of changes, I present that document to the Senate Majority Leader and he makes any other corrections or signs off.

That is how the Senate refers prefiled bills to the upcoming session. *Nevada Revised Statute* 218.278 says we do it as provided in Standing Rule 40 of the previous session. I felt this was a necessary change to follow our customs and practices. *Nevada Revised Statute* 218.320 and NRS 218.330 are similar in nature. These two sections have to do with dispensing with reprinting amended

bills. Both statutes state we should not dispense with the reprinting of bills over 32 pages. However, because of the 120-day constitutionally mandated sessions, when we come to the House passage deadlines, we are usually dealing with amendments. For example, during the 73rd Session, we had 50 bills to amend at 12 midnight. We made a motion to dispense with reprinting those amended bills so they could be considered and voted on relatively soon after the amendments were adopted. The practice of the Senate has been that we always dispense with reprinting amendments into bills if it necessitates handling that bill on a third reading and final passage. By eliminating the language of reprinting bills over 32 pages and substantive bills, it will help us deal with the legislative process in these critical deadline periods.

Nevada Revised Statute 218.340 deals with transmitting bills back to LCB to enroll and send to the Governor. It is important for the Senate and Assembly to each have the opportunity to handle any issue it deems fit with that bill prior to adjournment. Statute tells us the administrative process of the two Houses is: upon receipt of those bills, we immediately transmit them to LCB to enroll and send to the Governor. This, upon adjournment, gives us the opportunity to handle things like technical amendments if they happen. This way, everyone is notified we are holding this bill until we adjourn for the possibility of taking some other action.

SENATOR RAGGIO:
I commend Claire Clift for her diligence. She has spent a large amount of time reviewing our Senate Standing Rules and what is in NRS. I endorse the changes proposed in S.B. 490.

CHAIR CEGAVSKE:
I will take a motion on S.B. 490.

SENATOR RAGGIO MOVED TO DO PASS S.B. 490.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CEGAVSKE:
I will take a motion on S.J.R. 6. Staff has provided a handout for the Committee (Exhibit C).

SENATE JOINT RESOLUTION 6: Urges Congress to reauthorize the State Children's Health Insurance Program to assure federal funding for the Nevada Check Up program. (BDR R-1313)

SENATOR MATHEWS MOVED TO DO PASS S.J.R. 6.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CEGAVSKE:
I open the hearing on S.B. 489.

SENATE BILL 489: Prohibits threatening or intimidating persons who are gathering signatures on petitions. (BDR 24-178)

MICHELLE L. VAN GEEL (Committee Policy Analyst):
Senate Bill 489 was requested by former Assemblywoman Sharron Angle. Senate Bill 489 prohibits a person from threatening or intimidating a person gathering signatures on a petition in support of the placement of an item on the ballot. Senate Bill 489 also allows a person alleging a violation of this prohibition to file a complaint with the Secretary of State no later than three working days after the alleged violation. If the Secretary of State determines a violation has occurred, he must extend the period for gathering signatures up to five days. Senate Bill 489 further allows a decision by the Secretary of State to be appealed to the First Judicial District Court and requires the court to extend the period for gathering signatures up to five days if a violation occurred. A person who threatens or intimidates a signature gatherer is liable to the complaining party for the payment of reasonable fees and costs.

MS. CHAPMAN:
I have been involved with harassment directed at me as a petitioner and support S.B. 489. On one occasion, we were petitioning in a Department of Motor

Vehicles (DMV) building and were harassed and ordered to leave the premises. Our right to petition was threatened.

MS. HANSEN:
We support S.B. 489. I spoke with Ms. Angle about the possibility of other remedies for the petition campaign as well as for the individual petitioner who is harassed. There might be a better remedy for people who are harassed than extending the days.

CHAIR CEGAVSKE:
We will contact Ms. Angle, and S.B. 489 will go to a work session.

MS. HANSEN:
I will try to follow up on recommendations for amendments.

CHAIR CEGAVSKE:
This Committee's final work session will be April 12, so we would need anything before then.

MR. WAGNER:
We support S.B. 489. Petitioners should have free reign within reason. We should not harass people to sign petitions, and people should not harass those who want to sign petitions as well.

SENATOR RAGGIO:
Section 1 of S.B. 489 states "any person lawfully attempting to gather signatures." What does that mean? I could envision a situation where this could chill what otherwise would be unlawful behavior. Suppose circulators are gathering signatures within their right and at the same time obstructing the operation of the agency by gathering in front. The term free reign was used; I do not agree with that. There must be reasonable efforts on the part of people obtaining these signatures. That does not mean circulators can do any and everything that would be determined unreasonable or unlawful.

MS. ERDOES:
This language is in S.B. 489 to prevent exactly what you are talking about. It is only a violation of the statute if the circulator is acting unlawfully. Senate Bill 489 would not prohibit someone from stopping unlawful circulators.

SENATOR RAGGIO:
There are things that violate the law. For example, disturbing the peace; there is a fine line between that and free speech. I want to make sure there is some clarification on what the term "lawfully attempting" means.

MS. ERDOES:
If there is language you can add to clarify this, we would be happy to do that.

SENATOR RAGGIO:
I know what it means to you and me at the moment. I am concerned with what it means to someone who enforces the law.

MS. HANSEN:
Some of Senator Raggio's concerns are addressed in petition laws passed during the 73rd Session. Senate Bill 489 provides government entities the ability to give petitioners a specific location within the area to petition. That limits petitioners in a reasonable way when they are in a public building. I agree it is important to make the law clear because I do not want petitioners breaking the law or violating people's rights.

SENATOR HORSFORD:
I agree with Senator Raggio's comments regarding several provisions in section 1 of S.B. 489. I have some questions for the Secretary of State's Office as to what the current practice is for harassment. What type of impact would section 1, subsections 3 and 4 have on the Secretary of State?

NICOLE LAMBOLEY (Chief Deputy, Office of the Secretary of State):
The Secretary of State has some concerns that S.B. 489 may be written too broadly. The terminology of "threaten" and "intimidate" is best left to the courts to make that determination. Senate Bill 489 does not provide any procedure in which the Secretary of State would make a judicial decision. There is a separation of powers issue that should be discussed with courts having that authority to interpret the law. Civil remedies are available to a person if they feel their rights have been violated.

SENATOR HORSFORD:
Why does it state in section 1, subsection 4 "may only be appealed in the First Judicial District Court"? What is the rationale for only that district court being involved?

MS. ERDOES:
That was because the Secretary of State's Office is in the First Judicial District Court area. It is less expensive for the state.

SENATOR RAGGIO:
Is there an existing provision that makes threatening or intimidating someone in this manner actionable?

MS. ERDOES:
There are basic threatening and intimidating laws for those who feel their personal safety nets are violated. There is not a specific requirement for this type of behavior.

SENATOR RAGGIO:
In the past, people have gone to court and won extensions in petitioning periods. What S.B. 489 does is create an intermediate stage. I am concerned about the extension ultimately resulting in a delay of the election process.

MS. ERDOES:
The cases before were First Amendment challenges to the *Constitution of the United States of America* on the basis that a public building did not allow circulators to petition.

SENATOR HORSFORD:
In the instance of petitioning in front of a DMV building, it was resolved and extra time was permitted based on judicial review. I have concerns about giving that judicial review to the Secretary of State who should be the chief election officer, not the judicial review officer. I hope we clarify this issue before the work session because I have a problem with what this does to the separation of powers.

MS. ERDOES:
That is a policy choice for you. Senate Bill 489 sets up the Secretary of State as the place to go first for complaints. With the other argument, you would not have to hire an attorney to go to court for this provision to go to the Secretary of State.

MS. HANSEN:
We recommended former Assemblywoman Angle change the remedy and remove the Secretary of State from S.B. 489. We do not agree with that portion of S.B. 489. What should be available as an alternative is a process whereby an individual organization or person harassed could receive remedy in the courts.

CHAIR CEGAVSKE:
I close the hearing on S.B. 489 and open the hearing on S.B. 548.

SENATE BILL 548: Revises various provisions relating to public offices. (BDR 23-1434)

MS. VAN GEEL:
Senate Bill 548 was requested by this Committee. It requires financial disclosure statements to include information for the full calendar year immediately preceding the deadline for filing the forms. Senate Bill 548 also requires statements must be published 60 days before a general election or 30 days before a primary election and expressly advocate the election or defeat of a clearly identified candidate. The statement must be published by a person who receives compensation from the candidate, an opponent of the candidate or a person, party or committee required to report expenditures pursuant to NRS 295A.210. The statement must contain a disclosure of fact that the person receives that compensation pursuant to NRS 295A.210. Senate Bill 548 also provides that "published" means printing, posting, broadcasting, mailing or otherwise disseminating or causing any of these options. Senate Bill 548 would be effective October 1 if passed.

MS. ERDOES:
Section 2 of S.B. 548 deals with the issue of where candidates file a separate financial disclosure form if they were an elected officer. Senate Bill 548 changes the requirement to file once every year instead of filing two times each year. The duplication is removed as well.

CHAIR CEGAVSKE:
The intent of S.B. 548 is to clean up some of the duplication.

SENATOR MATHEWS:
Would S.B. 548 cover any extra documents sent to you after filing your financial disclosure? After I filed, I received a one-page questionnaire asking exactly what was on my disclosure.

CHAIR CEGAVSKE:
That was something additional from the Secretary of State. Former Secretary of State Dean Heller stated that document was optional.

MS. LAMBOLEY:
Former Secretary of State Heller began that practice which the current Secretary of State Ross Miller continued. The form is voluntary, and we will post the information provided by Legislators on the Secretary of State's Website.

SENATOR MATHEWS:
The numbers on the bottom of the document are identical to the numbers on my financial disclosure. I am bothered by the threat that our name will be posted on the Website if you did not return the Secretary of State's document.

MS. LAMBOLEY:
I will investigate this issue further and respond to the Committee in the future.

MS. ERDOES:
That document came about because the Legislative Commission is required by law to review the information reported on the form.

SENATOR BEERS:
The forms made little sense from an accounting perspective. As a result, they were changed in law. Following this, I attempted to put a form into the law and the Legislature rebuffed my request and required review by the Legislative Commission of forms designed by the Secretary of State.

MS. HANSEN:
I find the Secretary of State's document objectionable. This process is intimidation and threatening to Legislators. I have questions with section 3 of S.B. 548 where it mentions a statement published before 60 days. I am wondering if my voter guide falls under this stipulation. It is published 60 days before an election and expressly advocates election or defeat of identified candidates in terms that it has advertisements by candidates. We receive payments for these advertisements, so would we fall under the stipulation in section 3, subsection 1, paragraph (c) of S.B. 548?

MS. ERDOES:
It is difficult for me to give an accurate answer because I do not have your voter guide. It is possible you would fall under these guidelines, depending on how you present the advertisements. If that were the case, the requirement would be that you disclose the fact that people pay for those advertisements in your voter guide.

MS. HANSEN:
Would a newspaper have to comply with the stipulations in S.B. 548?

CHAIR CEGAVSKE:
Section 3, subsection 1, paragraph (b) of S.B. 548 states "Expressly advocates the election or defeat."

MS. ERDOES:
Section 3, subsection 1, paragraph (c) of S.B. 548 states "Is published by a person who receives compensation." We are talking about the statements published by the person who receives compensation. Senate Bill 548 is stipulating that if a person who is paid compensation publishes a statement expressly advocating a candidate, S.B. 548 would apply to them.

MS. HANSEN:
If a candidate pays me to put an advertisement in my voter guide, will I be violating S.B. 548?

MS. ERDOES:
If the statement you publish makes it clear it is an advertisement paid by the candidate, then no.

CHAIR CEGAVSKE:
Normally we disclose who pays for advertisements.

SENATOR BEERS MOVED TO DO PASS S.B. 548.

SENATOR RAGGIO SECONDED THE MOTION.

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

* * * * *

SENATOR MATHEWS:
I voted for S.B. 548 but reserve my right to vote against this later.

CHAIR CEGAVSKE:
If there is nothing else to come before this Committee, I adjourn the Senate Committee on Legislative Operations and Elections at 3:42 p.m.

RESPECTFULLY SUBMITTED:

Brian Campolieti,
Committee Secretary

APPROVED BY:

Senator Barbara K. Cegavske, Chair

DATE: