

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

**Seventy-Fifth Session  
May 21, 2009**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 3:59 p.m. on Thursday, May 21, 2009, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)) and the Attendance Roster ([Exhibit B](#)), are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/75th2009/committees/](http://www.leg.state.nv.us/75th2009/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Ellen Koivisto, Chair  
Assemblyman Harry Mortenson, Vice Chair  
Assemblyman Ty Cobb  
Assemblywoman Heidi S. Gansert  
Assemblyman John Hambrick  
Assemblyman William C. Horne  
Assemblyman Ruben J. Kihuen  
Assemblyman Harvey J. Munford  
Assemblyman James Ohrenschall  
Assemblyman Tick Segerblom  
Assemblyman James A. Settelmeyer  
Assemblywoman Debbie Smith

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Marcus Conklin (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Dennis Nolan, Clark County Senatorial District No. 9

**STAFF MEMBERS PRESENT:**

Lorne J. Malkiewich, Director, Legislative Counsel Bureau  
Brenda J. Erdoes, Legislative Counsel, Legal Division, Legislative Counsel Bureau  
Susan Furlong Reil, Chief Clerk of the Assembly  
Patrick Guinan, Committee Policy Analyst  
Terry Horgan, Committee Secretary  
Sherwood Howard, Committee Assistant

**OTHERS PRESENT:**

Dino DiCianno, Nevada's Voting Member, Streamlined Sales Tax Governing Board, Inc., Nashville, Tennessee  
Tray Abney, Director, Government Relations, Reno Sparks Chamber of Commerce, Reno, Nevada  
Carole Vilardo, President, Nevada Taxpayers Association, Carson City, Nevada

**Chair Koivisto:**

[Roll was taken.]

The first bill we will hear today is Senate Bill 370 (1st Reprint).

**Senate Bill 370 (1st Reprint):** Makes various changes relating to the legislative process. (BDR 17-1030)

**Susan Furlong Reil, Chief Clerk of the Assembly:**

Part of this bill was drafted at my request. It is section 2.5, having to do with the reprinting of bills. *Nevada Revised Statutes* (NRS) 218.330 currently provides that reprinting of a bill may be dispensed with, and the amendment to that bill may be inserted by hand into the bill. The statute was written before we had the technology we have today. Now, the Legal Division provides you with an amendment, and you can see exactly what the bill looks like with the amended language in it.

When this statute was written, if you dispensed with the reprinting, you actually had to handwrite the amendment in the margin of the bill in order to

pass the bill out. We have been dispensing with reprinting quite a bit this week, and it would really take an incredible amount of time to comply with this statute. We get around this statute by dispensing with the rules, but we do not do this anymore and would appreciate it being removed from the statute.

**Chair Koivisto:**

Are there any questions from the Committee? [There was no response.]

**Brenda Erdoes, Legislative Counsel, Legal Division, Legislative Counsel Bureau:**

This bill is asking for changes related to the process through which legislation is developed. The first section was requested by the Secretary of the Senate. As you know, they have a different setup. The Lieutenant Governor serves as their presiding officer and is not a Senator. The process of asking for fiscal notes is contained in NRS 218.272 to 218.2758, inclusive. The Senate decided they would feel more comfortable if the Majority Leader was designated as the presiding officer for purposes of that statute, so a Senator rather than the Lieutenant Governor would be making that request. If there was any question, subsection 1 of section 1 also says the Speaker of the Assembly is the presiding officer, but that is a given; however, we added that language for balance.

If you looked at the introductory copy of the bill, section 2 was actually in the text of repealed sections at that point. However, Ms. Furlong Reil looked at it and pointed out to us that we wanted to save the first part of that section. So the change that occurred in the reprint of this bill was to pull NRS 218.300 out of the repealed sections, put it back in the bill, and amend it. We are deleting the second half of section 2, which was problematic because of language concerning handwriting of amendments. Some other obsolete items were removed that might make you wait on the floor quite a bit longer for us to process your amendments. The bill becomes effective upon passage and approval so that these things will take effect as soon as the bill is signed by the Governor.

**Chair Koivisto:**

Are there any questions from the Committee? It looks as though this is a bill to make the process run a little smoother. We have enough people to move this bill.

ASSEMBLYWOMAN SMITH MOVED TO DO PASS  
SENATE BILL 370 (1st REPRINT).

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CONKLIN, GANSERT, HORNE, AND SETTELMAYER WERE ABSENT FOR THE VOTE.)

Let us move on to Senate Bill 371.

**Senate Bill 371:** Makes various changes relating to interim studies and statutory committees of the Legislature. (BDR 17-952)

**Lorne Malkiewich, Director, Legislative Counsel Bureau:**

I am here to present Senate Bill 371. As you know, we do not urge or oppose legislation, but this legislation came out of committees that I staff in the interim—specifically the Committee to Consult with the Director and the Legislative Commission.

Senate Bill 371 concerns reforming the interim committee process, something that is coming to a head right now. In the interim, we had hoped to study reforming statutory committees, perhaps having the statutory committees meet in joint subcommittees in the interim, and various ideas like that. We had a little problem with the Committee to Consult. The second meeting of the Committee was scheduled for late June, and then a special session of the Legislature was called, so that meeting was cancelled. We ended up scaling back quite a bit, but we are still looking at the issue.

The point of this bill is that we want to make more effective use of our interim. We know we will be doing more with less in the future. I do not think anyone believes we are suddenly going to be doubling staff, nor are the issues legislators confront going to become much easier. Things are going to be more difficult, and we are going to have to do a better job. We are looking at making better use of our interim so that it is as efficient as possible. We also want to be certain what we are doing in the interim complements what we are doing during session.

This bill takes a moderate approach. You can go from one end of the spectrum to the other—from doing absolutely nothing to totally reforming the way we do committees. One concept I mentioned is having joint subcommittees from the standing committees meet in the interim.

This bill takes a middle approach, and there are three main changes. The first one has to do with the statutory committees. Our statutory committees include the Legislative Committee on Health Care, the Legislative Committees on Education, on Public Lands, and on High-Level Radioactive Waste, and one overseeing the Tahoe Regional Planning Agency and Marlette Lake. Those

committees are not clearly shown as subcommittees of the Legislative Commission. Until a session ago, they were not even budgeted through the normal budget process, although now they are. Our proposed budget for those committees is part of the Legislative Counsel Bureau's (LCB) budget and part of the Legislative Commission's budget. Both of those budgets are very lean for these next two years. We do not have a whole lot of money for the statutory committees, but what this bill says is that they answer to the Legislative Commission. At least their budgets are controlled by the Commission. The money for them is in the Legislative Commission's budget, so the budgets and work programs for all these interim committees are subject to control by the Legislative Commission.

Second, we are looking at the possibility of changing the way we do interim studies so you would just refer issues to the Legislative Commission and have the Commission decide. Similarly, the Commission might say, "Well, one of the issues referred to us was X, and we think that is something the Health Care Committee can look at." There have already been some bills that have done things like that this session. The idea is to allow the Legislative Commission to have a little bit more control and, during the interim, to be able to look at what the priorities are. If a number of issues are referred to the Commission, but three months into the interim another crisis pops up, you would be able to put aside the other things. The Commission would have the flexibility to look at the current crisis rather than just focusing on the issues passed to it. So that is one of the things this bill would do—give the Legislative Commission a little bit more authority over the statutory committees.

If you have been reading any of the fiscal notes I have been writing on establishment of statutory committees, they all mention small costs for legislators' travel, per diem, and salary. The larger issue is the impact these committees have on LCB staff. You have seen the large list of statutory committees, and they all look really good. You do want to look into all relevant issues, but if you pass them all, we do not have enough staff. One thing that exacerbates the problem is having a couple of legislators appointed to a non-legislative committee. We then are asked to provide professional and secretarial staff, so the last change in this bill says we will not provide staff unless a legislator chairs the committee.

Between the Committee and the Subcommittee, there were 40 meetings of the Advisory Commission on the Administration of Justice this past interim. That Commission is assigned to the Attorney General by statute, but they do not have any money for it. It was chaired by the Chief Justice of the Supreme Court but staffed by our office. We were able to do that this past interim, but I do

not know what kind of support we will be able to give this coming interim. This bill says that if we are going to be providing staff services to something other than one of the statutory committees you create, or one of the interim studies you form, a legislator should chair that committee. As we are stretching our resources too thinly, at least we will be stretching them for legislators. This, again, is a suggested approach to deal with this problem. I know time is getting short for any major modifications to this bill, but this is at least a way to get a bit of a handle on the interim-committee situation.

One other change in the bill would shorten the period of time for the interim studies and statutory committees to meet, which would help out with staffing. We are concerned for our staff if, immediately after the session ends, we jump right into interim committees and have them run right through to the start of the next session. I can tell you that none of us have taken annual leave. Some of us will be taking some after session. We are also going to have to take furlough leave. If we do not start the interim studies until January and the statutory committees until November, that will give us more time to prepare for them and to get the committees formed. We will get them wrapped up before the start of next session, and leave sufficient time after closing down those committees to prepare for the 2011 Session.

None of the suggested changes are set in stone. They are ideas for reforming the interim process. We want to be certain we do a good job of staffing all the committees and we want to get more control over how our staff is being allocated.

**Chair Koivisto:**

Thank you. Do I have any questions from the Committee?

**Assemblywoman Smith:**

Why are some interim committee chairmen elected by the committee and others appointed by the Legislative Commission?

**Lorne Malkiewich:**

You would have to talk to the bill drafters about that because it is usually determined by how the bill was drafted. Often it is requested. The requester will ask that two members be appointed by the Majority Leaders of both Houses and one by the Minority Leaders in both Houses. In general, interim studies are appointed by the Commission because interim studies are assigned to the Legislative Commission. When you look at the concurrent resolutions, the language says that the Legislative Commission shall conduct a study, but there are exceptions to that, too. You can draft a resolution saying that the

Commission is going to conduct the interim study, but Leadership is going to make the appointments. You are correct; there is absolutely no uniformity in this area.

**Assemblywoman Smith:**

No, there is not. I was surprised when I served on Public Lands this last interim that we elected the chairman and the vice chairman who were both from the same party, although we are not supposed to have that situation. Then, when I started looking at these bills I noticed that even our standing committees are different. Education's chair is appointed by the Commission, but the Public Lands Committee elects its chair. In the future, I would like to look at making all of these similar, because I believe it is confusing for our members.

**Lorne Malkiewich:**

After session is over and we know what interim studies and statutory committees we have, I prepare a document that includes all the committees to which legislators can be appointed. Regardless of the appointing authority, find out what committees you are interested in serving on, and pass that information along to both the Legislative Commission and Leadership. They can coordinate the appointments to make sure that the appointments are spread among the members. In the Assembly, the problem is usually making sure everyone gets an appointment. In the Senate, the problem is that some people serve on seven or eight interim committees. We will sort out who the appointing authorities are.

When we do the fundamental review of base budgets, the Interim Finance Committee decides that they need to do it by resolution, and then Leadership appoints the members. The Commission designates the chair. It is a really crazy process, and you can read about it in Chapter 218 of NRS. It is unbelievably convoluted.

**Assemblywoman Smith:**

I would appreciate getting a list of the differences after session. Maybe that is something we could work on next session.

**Chair Koivisto:**

Are there any other questions from the Committee? [There was no response.]  
What is the pleasure of the Committee?

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS  
SENATE BILL 371.

ASSEMBLWOMAN SMITH SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CONKLIN, GANSERT, HORNE, AND SETTELMAYER WERE ABSENT FOR THE VOTE.)

We have Senator Nolan with us to present Senate Bill 299 (1st Reprint).

**Senate Bill 299 (1st Reprint):** Provides for the reimbursement of certain costs to Legislators under certain circumstances. (BDR 17-561)

**Senator Dennis Nolan, Clark County Senatorial District No. 9:**

Every session I bring a bill forward that will help people serve in the Legislature. Anything we can do to help the average person run for public office, successfully achieve the office, and serve with minimal collateral damage to him and his family is a good thing. Senate Bill 299 (1st Reprint) is the bill I have brought forward this session. The bill now in front of you is amended to take care of those legislators who may be called into a special session and who might have made nonrefundable travel arrangements. This situation has occurred a number of times over the years. I can think of three or four legislators who were either on family vacations or had traveled somewhere, and then were called in to serve in special sessions. Those individuals suffered a loss on their airline tickets, or hotel reservations, et cetera. The bill says that the Legislature will reimburse legislators who have incurred nonrefundable costs as a result of being called to serve in a special session.

**Chair Koivisto:**

I would like to point out to the Committee that the language at the top of page 2 reads "... to the extent money is made available in the Legislative Fund for this purpose ...." I rather doubt we will see money in the Legislative Fund for this purpose for a while. Are there any questions from the Committee? [There was no response.] Because this bill has a fiscal impact, we will hold it until more committee members are present. Since most of our committee members have heard the bill, if we want to move it we could do a meeting behind the bar; but I think we will probably hold off on any action today.

We are hearing Senate Concurrent Resolution 35 (1st Reprint) next.

**Senate Concurrent Resolution 35 (1st Reprint):** Urges Congress to enact legislation allowing states to collect sales taxes on remote sales, including sales on the Internet. (BDR R-1312)



**Dino DiCianno, Nevada's Voting Member, Streamlined Sales Tax Governing Board, Inc., Nashville, Tennessee:**

I am speaking in favor of this concurrent resolution, not as the Director of the Department of Taxation, but as the voting member to the Streamlined Sales Tax Governing Board for the State of Nevada. What we are attempting to do with this resolution is send a message to Congress. We are urging Congress to process the Main Street Fairness Act. If Congress passes that Act, it would allow the states to tax Internet sales by remote sellers. Plus, if you are not a member of the Streamlined Sales Tax Governing Board, and if you have not streamlined your sales tax statutes so they are similar state-to-state, you are not allowed to share in that revenue. As of 2007, the estimated loss in sales tax revenue for the State of Nevada was over \$100 million. Looking out to 2012, the cumulative loss to Nevada over that five-year period would be well over \$800 million. E-commerce has now outstripped main street commerce three to one. There is no question about that. The majority of consumers now feel comfortable purchasing things over the Internet. Almost anything can be purchased over the Internet at this point in time.

The only thing that would be taxable would be tangible personal property, which is currently defined within our statutes. Again, I need to emphasize that without Congress passing a law overturning the *Quill* and the *Bellas Hess* cases, the states are prohibited from collecting taxes on the sale of tangible personal property over the Internet. This creates a competitive disadvantage for brick and mortar businesses currently operating in all the states. I urge your approval of this resolution.

I think it is clear that the Chambers of Commerce, mainstream businesses, and all the different unions in the state are backing this. It has broad-based support.

**Tray Abney, Director, Government Relations, Reno Sparks Chamber of Commerce, Reno, Nevada:**

We support this effort. You will see the name of my organization at the top of page 3 of this bill as one of the organizations that support it. We think it is a fairness issue for our members who have brick and mortar locations in the Truckee Meadows.

**Assemblyman Segerblom:**

Is Amazon.com one of your members?

**Tray Abney:**

I think they are, but I am not sure. I can get back to you on that, but I believe they are.

**Assemblyman Segerblom:**

Do they have a problem with this legislation?

**Tray Abney:**

Not that I know of.

**Chair Koivisto:**

A lot of online businesses already collect sales tax, and I think this resolution is important for all of us.

**Carole Vilardo, President, Nevada Taxpayers Association, Carson City, Nevada:**

We are very supportive of the Streamlined Sales Tax. I would like to make one comment. This Main Street Fairness Act legislation and the resolution attempting to get Congressional support is not new. In 1989, Assemblyman Grady, who at that time was head of the League of Cities, had legislation on this subject. At the time, we were looking at catalog sales because of the amount of business that was being lost.

I do not know if this Committee received information concerning a recent press release, but I am sure Mr. DiCianno told you the amount of revenue that is being lost. We have got to get Congress to change the definition of nexus, and that is all there is to it. In current statute, there exists a liability for paying sales tax for every citizen in the state who purchases over the Internet, by phone, or by catalog, and who receives the merchandise. Those individuals are supposed to go to the Department of Taxation's website, pull down the consumer use tax form, fill it out, and send it in. Probably 99.9 percent of our residents do not know that they have a liability to pay this tax.

It is also a matter of equity with our own in-state brick and mortar businesses. This is a very important matter, and I promise you that some of us will take your resolution and attach it to letters we will be sending. We want to emphasize the importance of this legislation that Congress will be dealing with, hopefully, this fall. We are poised to collect the tax once that change is made, so this is not a case where we have to wait for another legislative session.

**Assemblyman Settlemeyer:**

In the State of Nevada, the uncollected sales taxes on Internet sales are continuing to rise. All other sales taxes are decreasing; this is the only one rising. We are currently missing approximately \$100 million a year because of uncollected sales taxes. The state would be receiving \$40 million of those taxes, and the local governments would be receiving \$60 million.

**Carole Vilardo:**

Because Nevada is a signatory to the Streamlined Sales Tax Agreement, we have to be able to conform our definitions to what the Streamlined Sales Tax Governing Board adopts. This does not mean that we have to impose a tax on a new category if we have never taxed it. For instance, we exempt medicine from our sales tax, but our definition of "medicine" must follow the Agreement's definition. If that does not happen, we might not be allowed to collect the Streamlined Tax.

Because a 2 percent portion of our sales tax must be voter-approved, there will be a question on the 2010 General Election ballot. That question will concern sales and use taxes and ask the voters to approve allowing the Legislature to make any changes necessary to comport with federal law. We lost that ballot question during the last election, in part because it contained language about aircraft exemptions. Those of you who will be campaigning next fall, please, encourage your constituents to vote for that ballot question. It does not increase the base, it does not increase the rate, but it gives the Legislature the flexibility to make certain Nevada maintains compliance with the law so that we can continue to collect that tax revenue.

**Chair Koivisto:**

We also have to make sure that whoever writes the ballot language makes it simple and uncomplicated. The explanation on the ballot last year was very confusing.

**Assemblyman Settlemeyer:**

I tried to write the language in the bill so that a conservative like me would vote "yes," and I think I achieved that goal. Most of my constituents indicated that the wording in the ballot language that really bothered them concerned allowing the Legislature to change the laws on taxes. The wording currently reads that we are only going to change the laws to bring Nevada into compliance with federal laws. Hopefully, those changes I made to the language will garner more votes than the ballot issue received last election.

**Chair Koivisto:**

I hope you are right. There were a lot of confused people calling me about it. Are there other questions from the Committee? [There were none.] What is the pleasure of the Committee?

ASSEMBLYMAN MORTENSON MOVED TO ADOPT  
SENATE CONCURRENT RESOLUTION 35 (1st REPRINT).

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN CONKLIN WAS ABSENT FOR THE VOTE.)

The only other bills that may come to us are the interim Senate studies. It is simply a courtesy for us to hear those, and we generally approve them. They are hearing our study bills now, too. We will be able to hear those behind the bar. That has often been done in the past, so we will probably not have to have another hearing.

**Patrick Guinan, Committee Policy Analyst:**

I also want to let the Committee members know that there is one constitutional amendment in the Senate. If it comes out of the Senate, we will have one other item we may need to take care of. I believe it is Senator Washington's proposal to do away with term limits.

**Chair Koivisto:**

Is there anything else to come before the Committee? [There was no response.] All right, we are adjourned [at 4:38 p.m.].

RESPECTFULLY SUBMITTED:

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Terry Horgan  
Committee Secretary

APPROVED BY:

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Assemblywoman Ellen Koivisto, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

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

**Date:** May 21, 2009

**Time of Meeting:** 3:59 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster