

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

**Seventy-Fifth Session
April 23, 2009**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 3:54 p.m. on Thursday, April 23, 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](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at 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; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Ellen Koivisto, Chair
Assemblyman Harry Mortenson, Vice Chair
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 Ty Cobb (excused)
Assemblyman Marcus Conklin (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Lorne Malkiewich, Director, Legislative Counsel Bureau
Donald O. Williams, Research Director, Legislative Counsel Bureau
Kathy Steinle, Geographic Information Systems Specialist, Legislative Counsel Bureau
Patrick Guinan, Committee Policy Analyst
Terry Horgan, Committee Secretary
Cheryl McClellan, Committee Assistant

OTHERS PRESENT:

Julianna L. Ormsby, Chair, Advisory Committee on Participatory Democracy, Carson City, Nevada
Chuck Alvey, Past Vice Chair and Member, Advisory Committee on Participatory Democracy; President and CEO, Economic Development Authority of Western Nevada, Reno, Nevada
David Fraser, Member, Advisory Committee on Participatory Democracy; Executive Director, Nevada League of Cities and Municipalities, Carson City, Nevada

Chair Koivisto:

[Roll was taken. Committee rules and protocol were explained.] We have a presentation on participatory democracy this afternoon.

Julianna Ormsby, Chair, Advisory Committee on Participatory Democracy, Carson City, Nevada:

We are excited that both the Assembly and the Senate recognized today as Democracy Day. We would like to thank Secretary of State Miller and his staff for their tremendous support of the Advisory Committee on Participatory Democracy (ACPD). You each have a copy of our full report ([Exhibit C](#)). We will provide you with a quick overview of the ACPD and what it is we do, as well as our 2008 Help America Vote Act of 2002 (HAVA) grant awardees and our 2008 Jean Ford recipients.

The ACPD was founded in 1997, and works out of the Secretary of State's Office. It is comprised of bipartisan members from around the state. Our motto this past year was "70/70." We were working to ensure that voter registration

reached 70 percent of those eligible to vote, and that 70 percent of those registered actually turned out to vote. We are really happy to report to you today that we far exceeded that goal. Granted, we had an exciting presidential election, but we were really happy to be able to turn out those votes.

This year we also created specialties in working groups. One was the business liaison working group. We created a one-stop-shop for businesses. We worked closely with local chambers of commerce to get materials to those business owners who wanted to encourage their employees to register and to vote. Another working group was the youth liaison working group which did school outreach to younger potential voters. One project they took on was the national student/parent mock election to get young voters interested in voting for life. We were also really pleased to be a part of the Nevada Youth Legislature. They just had their inaugural class, went through orientation this past summer, and are working on their first bill as a Youth Legislature. As you may have heard, the census is coming. We are very interested in that and are going to be working on it. We are working on our goal for the future to engage even more Nevadans in the process. With that, I will turn this over to Mr. Alvey who will tell us more about the HAVA grant recipients in 2008.

Chuck Alvey, Past Vice Chair and Member, Advisory Committee on Participatory Democracy; President and CEO, Economic Development Authority of Western Nevada, Reno, Nevada:

We worked closely with the chambers of commerce and business organizations to get the word out about the importance of not just complaining about what is going on in government, but getting involved and voting. The project I was most involved in was the grant process. There were seven applications for grants; we recommended four be approved. However, we spoke to all seven applicants and gave them opportunities to improve their grants, which we think made the process even better. All the grant applicants were very good, but my personal favorite was the College of Southern Nevada. In my field of economic development, it is hard to find young people who are involved and engaged, so we started things like the "Young Professionals Network." The College of Southern Nevada, which actually gave money back to us that they did not use, created a social network through the Internet, "Twittering," et cetera, to involve that really hard-to-reach demographic in the voting process. We tried to find different ways, from the newspapers to public radio and even through the disabled in the rurals, to try to get people out for the vote.

Hopefully, we raised the bar; and, as Julianna said, it did not hurt to have a very high profile national election, but we also tried to do our part to make voting in the election successful.

**David Fraser, Member, Advisory Committee on Participatory Democracy;
Executive Director, Nevada League of Cities and Municipalities,
Carson City, Nevada:**

I would like to make a few comments about the Jean Ford award that is presented by the ACPD. It is a great opportunity to recognize those who have shone in the areas of participatory democracy and civics education in the State of Nevada. Categories include elected officials, public sector, educator, and community members. As in former years, this year there was a strong pool of nominees for those awards. This year's recipients began with Senator Valerie Wiener. It was mentioned on the floor of the Assembly that she leads the nation among all legislators in student visits. She also was instrumental in passing legislation last session that created the Nevada Youth Legislative Forum, which has been outstandingly successful in its inaugural season. The Forum creates an amazing opportunity for kids to really get their feet wet and learn about the legislative process.

Daniel Wong, a Chief Deputy Attorney General, volunteers 300 hours a year helping with the We The People program. Stephanie Hartman received the educator award. She is the social studies consultant with the Department of Education, and Kenya Pierce, award-winner in the community category, has done a lot in terms of activating and mobilizing voters, which speaks to the very heart of the mission of the ACPD. It is quite an honor that we were able to give these awards named for Jean Ford. Among the many great things she did included serving in both Houses of this Legislature.

Julianna Ormsby:

The mission of the ACPD is to engage the citizens of Nevada in participatory democracy. We would like to thank all of you for engaging your constituents in the process.

Assemblyman Munford:

Your handout states that Western High School in Clark County had the largest number of students participate in the mock election last year. Was that at Western High School?

Julianna Ormsby:

Yes, that is correct. Western High School did turn out the highest percentage of students in that election. Senator Wiener will be going to that school, which is in her district, to honor them this fall. They also had a pizza party with Secretary Miller. They did a great job, but we had a great turnout around the state. While they won, I think we all won, because we got a lot of students and parents interested in the voting process.

Assemblyman Munford:

Western is an urban, inner city school and it out performed the schools in the outer area?

Julianna Ormsby:
Statewide.

Assemblyman Munford:

I am impressed with Western High School; I really am.

Assemblyman Settelmeyer:

I really appreciate your participation and help with the We The People program. I actually competed in that program when I was in high school. I believe Incline Village High School, which is partly in my district, came in second.

Chair Koivisto:

Are there any other questions or comments from the Committee? [There was no response.] Thank you so much for bringing this information and for all the work you have done. It was an exciting election and great to see so many people get registered and vote.

Let us go to Assembly Bill 535.

Assembly Bill 535: Makes various changes relating to the Legislature and the Legislative Counsel Bureau. (BDR 17-957)

Lorne Malkiewich, Director, Legislative Counsel Bureau:

The Legislative Commission has the authority to request a number of bills each interim, usually involving cleanup of little things that come to their attention. Sometimes the request will involve a particular issue of interest that comes up in the interim. For the last few sessions, rather than request five or six very, very minor bills that we have to shepherd through the whole process, we have gone with what I call our "generic" bill that makes various changes relating to the Legislature and the Legislative Counsel Bureau. The nice thing about this bill is that it is entirely separable. We just take a few things we want to clean up, or at least bring to your attention because you might want to clean them up, too. You might like them; you might not, but if there are any sections of the bill you do not like, you can just amend them out. If you do not like any of them, you can kill the bill.

Section 1 of the bill is a reflection of what we have been doing. You probably have seen "Reports to the Legislature." We send you a list that is several pages

long of all the reports that have come in. If something affects your committee, we will send it to the committee. Rather than sending you all the reports, we compile a master list because we have found over the last few sessions that it is a lot better for us to have an electronic copy and print on demand than have someone submit 63 copies or 20 copies. Even if we do need to print them, such as a report for all members of the Legislature, if someone sends us an electronic copy, we can just print however many we need. I do not think there is anything prohibiting that from happening now, but what this would do is insert in Chapter 218 of the *Nevada Revised Statutes* (NRS) language indicating that electronic submission to the Legislature or to the Legislative Counsel Bureau of any report required is fine. The language we are suggesting is taken from a statute on electronic format in a later section of the NRS.

Sections 2 and 3 involve stationery. With term limits going into effect, we are receiving requests from legislators asking if their stationery can say "Retired" or "Former Assemblyman." *Nevada Revised Statutes* 218.048 was requested several sessions ago when a former legislator kept listing himself in a phone book in Clark County as "Assemblyman X." Some current legislators took offense to that and passed this statute that states that, once you leave office, you cannot use your business cards or represent yourself as a legislator. This language would carve out an exception to that. You are provided with a certain amount of stationery, but you can pay for additional stationery. If you want to buy more and have it say something like "Assemblywoman X (Retired)" or "Former Assemblyman," this statute would allow you to do that.

Sections 4, 5, 7, 8, 10, 11, 12, 13, and 14, relate to an issue that came up with regard to a particular committee, and we just thought we would make all the committees uniform. This language indicates what happens when someone who is a member of a committee that meets after the general election is either defeated or does not run for reelection. You will see from the various sections that are in the bill that committees have different rules on what to do. What raised the issue this time was our December Special Session. A lot of these statutes say that a legislator continues to serve until the next session of the Legislature, but what if we have a special session in December? Is that the "next" session, or does it mean the next regular session?

You can decide on this policy. What we have done in this bill is make them all uniform. What this bill says is that you continue to serve until the next regular or special session convenes. So, if there were a special session in December, that is when the person would stop serving on the committees listed in all those sections. There are about five or six different committees that have that same language about serving after the election until the start of the next session.

You could have the opposite policy. You could say that a legislator's service ends the day after the election; or you could say it would end at the start of the next regular session.

Assemblyman Segerblom:

Has someone looked at the constitutionality of allowing people to serve on these legislative committees when they are no longer legislators?

Lorne Malkiewich:

I do not believe there is a problem, but I will ask Legal. Serving in the Legislature would be a problem, but these are all statutory committees. We can create a statute that says, "Appoint seven members—three legislators; four not legislators." We can say, "Appoint seven members" and happen to have someone who is a legislator appoint. If the statute says "someone appointed as a legislator can continue to serve even though technically he is not a legislator anymore," he can continue to serve because the statute says so. I do not think we could make the individual a legislator. The day after the election, he would not be a legislator, but what the statute says is, notwithstanding the fact that he is not a legislator, let us not fill a vacancy for a two-month period. Just let the person continue to serve.

Chair Koivisto:

We passed a bill dealing with the Interim Finance Committee (IFC) and the Legislative Commission. How will that be affected by this bill?

Lorne Malkiewich:

On the policy issue, you could make the opposite decision and say that the day after the election the individual stops serving on all the statutory committees. We would go into all the statutes and change the language.

First, we do not know if that other bill will pass. You could conform this bill to that bill so that the language in IFC is the same, if that is the policy decision you want to make. The IFC is much more complex because its members are former members of the Assembly Ways and Means and Senate Finance Committees. You will have new members of Ways and Means and Finance appointed, so when those new members are appointed by the Speaker-designates and the Majority Leader-designates, it is much more complex. You might just want to drop IFC out of this bill altogether.

As for the Legislative Commission, what that bill did was put into statute a provision currently in the rule. It did not change anything. All provisions concerning the Legislative Commission are extremely hard to track, because

some can be found in the joint rules, some are in Chapter 218 of NRS, and some are in the rules and policies of the Legislative Counsel Bureau. That bill took the rule in your joint rules concerning the continuity of the Legislative Commission and stated what happens after an election. The Legislative Commission is not in this bill because that provision was not in the statutes; it was in the rules.

Assemblyman Segerblom:

Who is on the Legislative Commission?

Lorne Malkiewich:

The Legislative Commission is comprised of six members of the Senate and six members of the Assembly appointed by resolutions adopted at the end of session. We adopt the resolutions with about four days to go until the end of session, and the Commission meets with about three days to go in session to elect a new chair. Chairmanship rotates. The Legislative Commission oversees interim studies and provides policy leadership for the Legislative Counsel Bureau during the interim.

Assemblyman Segerblom:

For membership on IFC, a legislator must be a member of Ways and Means or Senate Finance, but can any legislator be a member of the Legislative Commission?

Lorne Malkiewich:

That is correct. The statute provides that membership is selected by resolution adopted by each House. It is up to each caucus to designate who they want to put on the Commission. Oftentimes, if a legislator is serving on IFC, that legislator will not be placed on the Commission. It is up to the Assembly to determine the six Assembly members, subject to the rule that determines the membership as far as the breakdown between the parties; and it is up to the Senate to determine the Senate membership.

Assemblyman Segerblom:

Is there anything in any of these rules that deals with the fact that we now have term limits? Is there anything that mentions a person cannot serve if that person's term will expire at the next election?

Lorne Malkiewich:

I do not believe there is. We do have one provision that relates to non-returning legislators, but it concerns travel. A non-returning legislator is someone who, as

of the date of filing, has not filed for office. That person cannot travel out of state without approval of leadership after that day.

Assemblyman Horne:

Are we going to change sections 7 and 10 in the bill dealing with the Interim Finance Committee to match Mrs. Smith's bill?

Chair Koivisto:

We need to wait and see if Mrs. Smith's bill passes through the Senate. If it does, then we would need to make this bill conform.

Lorne Malkiewich:

You have a couple of options. You could just drop section 10 out of this bill; you could amend this bill to match that one; or you could just wait and see what the Senate does before proceeding. If that one dies, you may want to do something with this one. I do not think you need to amend section 7, however.

Assemblyman Horne:

Section 5, subsection 2 is existing language, but states that "The members of the Committee shall select a Chairman from one House of the Legislature and a Vice Chairman from the other." That language does not match the way we do it in any other committees. It does not mention party when selecting the chair.

Lorne Malkiewich:

That is something you could do in this bill, because it relates to the Legislature and the Legislative Counsel Bureau. Something you could try to make a little more uniform is the selection of chairs and vice chairs. There are probably as many ways to do that as there are committees. In some committees, leadership appoints the members and the Commission appoints the chair. Some committees leave it up to the Legislative Commission to appoint; some have the members elect the chair and vice chair; some provide the chair from one House and the vice chair from the other; and some provide that the chairmanship rotate between the Houses. Education and Health Care go back and forth between the Senate and the Assembly, as does IFC and the Legislative Commission. Senator Dean Rhoads has been Chair of Public Lands for several sessions, so different statutes have different rules on how to select the chair, vice chair, and the members.

This bill also allows the Legislative Commission to do what it has been doing for a number of sessions, which is appointing alternates. We have had so much interest in Public Lands that we have appointed three members and a slate of

alternates from each House, and this bill expands the membership to four members per House and allows the Commission to appoint alternates.

Assemblyman Horne:

Could this be changed to match how it is done in the other committees?

Lorne Malkiewich:

If you want to change the manner in which the chairs are selected, require chairmanship to start rotating, or require the members to elect the chair, that is something you can do with this bill.

Assemblywoman Gansert:

The language discussing membership on these different committees speaks of people from the minority and majority parties. If there is a vacancy, the language says the membership consists of certain people appointed by each party, so a person would have to be replaced by a member of his same party to keep membership equally weighted. Does that have to be delineated in statute? Whenever there is need for a substitute, the substitute should be the same House and party.

Lorne Malkiewich:

That generally is required. If the provision says you need two members of the majority and one member of the minority, then an alternate or replacement would have to be from the same party. The new language concerning the Legislative Committee on Public Lands, at the top of page 4 around line 12 and following, states that if you do need to appoint an alternate and one of the same House and party is available, you must appoint that person. It may be that the person who is appointed as an alternate left the district and resigned his seat and there is not a person available, but this language says if there is someone available of the same House and party, then that person would have to be appointed as the alternate.

Assemblywoman Gansert:

At section 4, subsection 1, regarding the Legislative Committee on Education, it states that the Committee is supposed to consist of "Four members appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party." So, whenever there is a vacancy, because the membership is supposed to consist of people with certain qualifications, I would imagine the replacement member would be similar. Is that true or not?

Lorne Malkiewich:

For that particular Committee, I think subsection 4 covers it by saying, "A vacancy on the Committee must be filled in the same manner as the original appointment." So, the same rule would apply.

There is only one more substantive change in the bill. Section 11 addresses the composition of the Administrative Division. When we see references in statutes to "data processing" it gets our attention so, in addition to updating the language by deleting "data processing," we changed "data processing" to "information technology services" and put the list in alphabetical order. One function we have added to the Administrative Division is videoconferencing and the broadcasting of all our meetings over the Internet. Our audio and video services unit does that, so we added it to the duties of the Administrative Division. Although my human resources position is currently vacant to save money, that is a function we added to the Accounting unit and I wanted to put that into the statute.

Chair Koivisto:

Are there any other questions from the Committee? [There was no response.] I think you answered them all. We could pass this out so it could go over to the Senate and be conformed with Mrs. Smith's bill. If we can make the way these things are done more uniform, it would make life a lot simpler.

Assemblyman Horne:

If we send this bill to the Senate in hopes that they change it to conform with Mrs. Smith's bill, we may not get what we want. We should change it the way we want now, and ask the Senate not to alter it.

Assemblywoman Gansert:

The option being amend Mrs. Smith's bill into this and send it to the Senate so it is complete when it gets there?

Chair Koivisto:

I think Mrs. Smith's bill is already in the Senate.

Assemblywoman Gansert:

I was thinking about incorporating the language from her bill into this bill. We could amend the bill here to include what she was attempting to do in her bill, and then send it over to the Senate. Maybe the other bill would die and this one would travel.

Chair Koivisto:

Yes, I think that probably would be the way we would have to amend it. Mrs. Smith's bill addressed two committees—Interim Finance and the Legislative Commission. This bill addresses five or six.

Lorne Malkiewich:

The solution for IFC is much different than what is in this bill; it is much more complex. I think what was being suggested was taking the exact substance of that bill and putting it into this one. It would mean replacing section 10 and adding a new section because the Legislative Commission is not in this bill. The Legislative Commission's rules for continued membership after an election are not currently in statute. The Legislative Commission's rule goes the other way. It says that the day after the election you stop being a member of the Commission. When you pass that resolution, you not only designate members of the Legislative Commission, you designate alternates. So the day after the election, having a different member is not a problem at all. What Mrs. Gansert was suggesting was taking those two sections and putting them into A.B. 535 so that it would be consistent with that bill.

Assemblywoman Gansert:

I was thinking that was what the Senate would do, so we could either send the bill, or try to give the Senate exactly what we were thinking. I think that is what Mr. Horne was suggesting.

Chair Koivisto:

That is probably what we should do.

Assemblywoman Gansert:

It would also be early in this process of amendments versus trying to get caught up at the other end.

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS
AS AMENDED ASSEMBLY BILL 535.

ASSEMBLYWOMAN GANSERT SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN COBB, CONKLIN, AND
SMITH WERE ABSENT FOR THE VOTE.)

Chair Koivisto:

Let us go to Assembly Concurrent Resolution 19. This is something that needs to be done in order to set up the system for reapportionment and redistricting after the 2010 Census.

Assembly Concurrent Resolution 19: Directs the Legislative Commission to conduct an interim study of the requirements for reapportionment and redistricting. (BDR R-1281)

Lorne Malkiewich, Director, Legislative Counsel Bureau:

I was in the Senate Legislative Operations and Elections Committee a couple of hours ago presenting a Senate bill that talks about possibly changing the way we do interim studies. You may have heard something about that and we will probably be talking in this Committee about it later. If we continue to do what we have been doing, I think there is a very good chance you are going to want to pass this resolution and take a look at reapportionment this interim.

One of the unanticipated consequences of term limits is the fact that very few members of the Assembly have been through reapportionment before. The Chair and the Vice Chair were both here in 2001 and had the pleasure of participating in the reapportionment process. The only other person on this Committee who was here in 2001 was Mrs. Smith. Reapportionment is a very important function of the Legislature. Every ten years we have a census and then, the year after that, by *Constitution*, the Legislature has to redraw the Congressional districts as well as redrawing districts for the Legislature, the schools, and the Board of Regents.

The resolution before you, A.C.R. 19, is similar to the resolution we passed ten years ago directing the Legislative Commission's interim study of reapportionment. What we are going to do today is give you a little bit of an idea of what we did back then. Mr. Williams will cover that, and then we will talk a little bit about the technology and what we have been doing with the Census Bureau over the last few years to prepare for reapportionment. A lot of work is already underway in preparation for that.

Though term limits means that we are only going to have, at most, four members of the Assembly who were here in 2001 and who have participated in this before, we will have a very experienced staff helping out, including Bob Erickson in Las Vegas. Bob is the former Research Director, and has worked on redistricting a few times in the past. Brian Davie also has worked on redistricting a few times, as have the people with me here today, so there will be a very experienced team working on reapportionment.

Some of the things we will be looking at include the funding and what kind of hardware and software we are going to buy. Staffing is another issue. We brought four people in last time to assist—one for each caucus. Don Williams, our Research Director, will give you a little background.

Donald O. Williams, Research Director, Legislative Counsel Bureau:

[Mr. Williams read his remarks on the resolution from prepared text ([Exhibit D](#)). In addition, he distributed copies of newsletters published by staff about redistricting studies ([Exhibit E](#)).]

You can find information on our website, and I have prepared and handed out a copy of the webpage of district information ([Exhibit F](#)). If you go to the Research Division on the website and follow it to the District Information, you will find information about the 2011 reapportionment and redistricting. This page will update census information and any developments leading into the next session.

I also had Michael Stewart of my staff prepare a handout that gives you some key issues about redistricting to consider going into the interim, including some population projections and how some of the districts might change ([Exhibit G](#)). Please understand that the reapportionment/redistricting during session will be based on the 2010 Census that will begin on April 1 of next year. The Census results have to be released to the Legislature on April 1, 2011. Currently, the average population in a single-member Senate District is 95,155. An Assembly District is one-half that—47, 578. Based on projections, if we do not change the size of the legislative districts, the average Assembly District would have a population of approximately 70,000 and a Senate District would have approximately 141,000.

Lorne Malkiewich:

Mr. Williams mentioned the Census. Those of you who serve on the Ways and Means Committee might have heard something about a request for an appropriation in support of the census. Ten years ago, we did spend money for that purpose; the idea being that undercounts hurt a state in federal funding for the next ten years. However, this is a particularly bad legislative session to be asking for money for something like that, but that is a request we have made. Ten years ago, our request was paid out of the contingency fund.

Mr. Williams also mentioned release of census information. Eight years ago, we requested that Nevada get its information early. The Census Bureau does not release information on all 50 states at once; they release a few at a time. We asked to get one of the early blocks for release because of the 120-day limit on

our legislative session. We have a constitutional duty to reapportion at the 2011 Session, and because we are going to start on February 7 and adjourn on June 6 in 2011, we would need to get the information early enough to reapportion. The Census Bureau did accommodate us last time, and we were one of the first groups to receive the census data. I think we will want to make that request again.

Kathy Steinle has been our geographic information system (GIS) specialist for a long time. She works on all those district maps you receive. She started in 1989, so she has a couple sessions of experience, and deals with technology—the most interesting area. There was a huge difference between 1981—drawing districts on flip charts—and 2001 when people's computers were able to generate the maps. I can only imagine the kind of technology we are going to have in 2011 and the ability to use the data we get. Kathy will explain what we are doing in preparation for the Census.

Kathy Steinle, Geographic Information Systems Specialist, Legislative Counsel Bureau:

[Ms. Steinle spoke from prepared text ([Exhibit H](#)).]

Lorne Malkiewich:

Madam Chair, again, this is part presentation of the resolution and part update on the progress of preparation for the 2010 Census and reapportionment. We have an experienced staff to work on reapportionment assembled here ready to answer your questions.

Chair Koivisto:

It is a lot more complicated than what we see from our perspective, and there is so much work that goes on behind the scenes just getting ready for it. That certainly illustrates the need for the resolution. We have to get started.

Assemblywoman Gansert:

We have experienced significant growth in the last ten years. I want to make sure that is taken into account. When I have asked questions about census data, it has not been broken down per precinct during the interim. Is there a way our demographer could get precinct-level data? I am not sure how that is divided up, or if there is some way to incorporate that so we can really tell how these districts grow and evolve during the interim and not just at the census' snapshot.

Donald Williams:

I know the research staff has looked into this. What I recommend is that during the study, we have the state demographer address the Committee and respond to that question. You are correct. That information is not currently available and we would need the demographer. I would like to point out that it is the census itself that produces the data we use for reapportionment and redistricting. The demographer makes projections and estimates, so census data is not actually produced by the demographer.

Assemblywoman Gansert:

I recognize that; however, because we have been such a high-growth state, we should do a better job of tracking the movements and the growth given that it probably will continue. There may be different pockets of growth and knowledge of those areas could help us as we are doing reapportionment. I know there are districts with well over 100,000 registered voters that used to have 47,000 in population, so only a portion of that number would be registered voters. Maybe we could try to extrapolate where a district might be going or lines might be traveling so that we could do a better job of reapportionment.

Lorne Malkiewich:

Once we know what we are going to be doing with the census data, we would also like to be able to use this software with the demographer's data. Perhaps it will not be as detailed as the census information, but it might allow us to see other things. That is what GIS is about—being able to organize this data that way.

Assemblywoman Gansert:

Thank you. I think that would be very helpful.

Assemblyman Hambrick:

I realize some of the census will be constitutionally overseen because congressional districts are included and there are certain requirements that would have to be met, but how far down would either the federal *Constitution* or the state *Constitution* affect the boundaries of these districts? Are there requirements that we have to have certain numbers, or is that solely within the purview of the Body?

Lorne Malkiewich:

The one member of our team who is not here is our Legal Counsel, but one of the things we look at in the interim study is the legal requirements—what does the state *Constitution* require, what does the federal *Constitution* require, what does the case law coming out of the U.S. Supreme Court say, and what

changes have occurred since 2001. Are there limits on gerrymandering, and if so, what do the recent cases say? How much of a population deviation can you have for congressional districts? It is next to nothing. At the time of reapportionment, our congressional districts are within a handful of people, whereas with the state legislative districts, the latest constitutional rule said if you are within 10 percent, that is good enough. That is one of the things we would update to make certain, when you sit down in 2011 and start drawing those districts, what the constitutional parameters are.

Assemblyman Hambrick:

This is a bit tongue-in-cheek, but do you think you could order more districts to be shaped as squares and rectangles?

Lorne Malkiewich:

That is one of the guidelines in the standards for redistricting. Almost every plan for redistricting states that districts are to be reasonably compact; however, there is also continuity of interest and residence of the incumbent to be considered.

Chair Koivisto:

Because of our ethnic populations, we have tried to do minority districts. So because of the changes in our population, we may have to look at another minority district.

Lorne Malkiewich:

Yes. One of the legal issues you have is the majority/minority districts, or minority-influenced districts. You cannot create districts in a manner to deny representation. That is among the legal requirements.

Assemblyman Ohrenschall:

Earlier in your testimony, Mr. Malkiewich, you mentioned some figures. I think you said that, based on some estimates, if we did not expand the membership of the Assembly, each Assembly District would represent 70,000 voters.

Donald Williams:

I asked Michael Stewart to put together an estimate, so please, understand that this is a very rough estimate. But, based on the current projections from the state demographer, the average Assembly District would have a population of 70,567. An average single-member Senate District would have 141,134 residents.

Assemblyman Ohrenschall:

And those numbers refer to population and not registered voters?

Donald Williams:

That is correct. Reapportionment and redistricting are based on population.

Assemblyman Ohrenschall:

I noticed that the estimate is for single-Senator Senate Districts. Why do we have double-Senator Senatorial Districts as well as single-Senator Senatorial Districts?

Lorne Malkiewich:

A while ago, we had a large number of multi-member Districts in the Senate. When we reapportioned in 2001, there was an argument for maintaining some of them but we did cut way back. We now have only two, so that is the equivalent of four Assembly Districts with two Senators. The argument that has been made in favor of them is that the people in those districts have two Senators, and that is one of the benefits of it. Another factor that mitigates in favor includes continuity of interest. That will mainly be an issue the Senate will look at. We did reduce them substantially last time.

You mentioned "at the current size," and that is one issue I wanted to address. A state *Constitution* requirement or limitation says that we cannot have more than 75 members. The Senate has to be no less than one-third the size of the Assembly and no more than one-half of its size. It has obviously been exactly one-half for quite some time, and that is the maximum that the Senate can be. You could not add a Senate member and keep the Assembly the same. If you add one Senate member, you must add at least two Assembly members, but you could add more to the Assembly and still have the Senate membership be between one-half and one-third of the Assembly's.

I was on the floor of the Senate and the Assembly today taking a look. There are two empty desks in the Assembly at the far ends of the back row, so there would be no necessity for major construction on the floor if we added up to two in the Assembly. If you do not want to represent 70,000 people, you could add a couple of members, which would bring representation to 65,000 or 60,000 people. So you could take a look at the possibility of adding members.

Assemblyman Ohrenschall:

The figure of 70,000—how does that compare with a district in another state, or would we be comparing apples and oranges?

Donald Williams:

Every state is different because the size of their legislatures is different. I worked for the Texas Legislature and was involved in redistricting in 1981. At that time, there were 150 members of the House and 31 members of the Senate. The average House district represented 110,000 people. Now that number is probably 150,000-plus. The figures I gave you for Nevada were based on keeping everything the same as far as membership of the two Houses is concerned. Obviously, if we reduced or increased the membership of either House, those numbers would change.

Assemblyman Settlemeyer:

My counterpart in California represents over 400,000 people. He represents more than a congressional delegate in Nevada would. I hope we will look at some of these Assembly and Senatorial Districts. Once there is full build-out in certain communities they cannot grow any more, so we need to be certain to allow for growth within each Assembly and Senatorial District. We would like them all to grow proportionally, because I believe the situation now is that some Senatorial Districts are larger than some Assembly Districts in Clark County.

Chair Koivisto:

It is good to hear the Committee Members' concerns while we are talking about the resolution and it certainly points out the necessity for doing this; however, those are details that will be worked out by the interim committee.

Lorne Malkiewich:

There are things we can discuss in the interim study and then, in passing the bills, these concerns will be taken into account.

Assemblyman Munford:

How are the members appointed to the committee that actually draws the lines and determines how the districts are going to be divided? This newsletter ([Exhibit E](#)) shows us who sat on the committee last time, but how do they determine that makeup? Will it be the same people?

Lorne Malkiewich:

That is going to be entirely your decision. It will be up to the Assembly to determine what committee handles it and who the members of that committee will be. Each House makes that determination. You could create a select committee or send it to a particular committee. It has been done in different ways by the different Houses in the past, but it is up to the Legislature. With today's technology, people will be able to generate a large number of plans and different options.

As far as who gets to make the decisions, it ends up being a bill. Look at the beginning of *Nevada Revised Statutes* (NRS) Chapter 218. If you think legislation is unintelligible, try reading the description of your district. That is a huge bill that lists the description of every single legislative district, and like any other bill, it is a bill that is introduced, referred to a committee, and passed into law. Like any other bill, how you handle it is a matter for your House to determine.

Chair Koivisto:

My recollection of the last redistricting is that it was done in the Elections, Procedures, and Ethics Committee in our House. Of course, leadership from both sides was very instrumental.

Donald Williams:

The joint standing rules from last time actually included Rule 13, "The Responsibility for Measures and Approval of Research Requests on Reapportionment," and it states that the Committee on Government Affairs of the Senate and the Committee on Elections, Procedures, and Ethics of the Assembly are respectively responsible for measures which primarily affect the designation of the districts from which members are elected to the Legislature. So it was done by joint rule designating the committees that were responsible.

Assemblyman Mortenson:

We had an interesting bill that sounded very logical and reasonable. It would have reapportioned every five years because we grow so fast and our Assembly and Senate Districts become so out-of-balance. That sounds very reasonable, but, from a fiscal standpoint, what that would entail? First, the federal government conducts the census and then we do the redistricting. What does a redistricting process entail in terms of money?

Lorne Malkiewich:

I would not want to try and venture a guess on the overall cost. Some of these are legal issues. You can redistrict between the censuses, although we are required by the *Constitution* to do it after the census. The problem is that you start getting into constitutional issues if you do not have good data. Because of the one person/one vote requirement, if you are going to redistrict between censuses, you need to make sure that you have good data. If someone challenges it saying that you did not create evenly-balanced districts, you need to be able to say, "No, this data is actually better than the census' data because it is more recent and here is how accurate it is." That is the first hurdle you have.

Some local governments have talked about redrawing their boundaries because of rapid growth. The expense, I would think, would be mainly at the local level for the election officers, and they might be better people to ask about that.

Assemblyman Mortenson:

Are you saying that some counties could do it and others not?

Lorne Malkiewich:

For local offices, if a city council wanted to redraw its precincts for election of city officers, it could do that.

Assemblyman Mortenson:

I was thinking Assembly and Senate Districts.

Lorne Malkiewich:

That would require the entire Legislature to do that. As our Information Technology people say, "Given enough time and money, we can do anything." Actually, that is not quite true, but I pointed out the legal issues and you mentioned the cost, and those are the two things you need to consider. But I do not think there is anything prohibiting a legislature from redrawing lines in the middle of a decade.

Assemblyman Mortenson:

The bill was a constitutional amendment to permit that, and I wondered whether it was fiscally possible.

Chair Koivisto:

Are there other questions from the Committee? [There was no response.] I think we want to try to move this bill today.

ASSEMBLYMAN OHRENSCHALL MOVED TO ADOPT
ASSEMBLY CONCURRENT RESOLUTION 19.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN COBB, CONKLIN,
SEGERBLOM, AND SMITH WERE ABSENT FOR THE VOTE.)

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Is there anything else to come before the Committee? [There was no response.]
All right, we are adjourned [at 5:15 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblywoman Ellen Koivisto, Chair

DATE: _____

EXHIBITS

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

Date: April 23, 2009

Time of Meeting: 3:54 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
	C	Julianna Ormsby	"Report to the 75th Reg. Session of the NV Leg" by the Adv. Comm. On Participatory Democracy
SCR 19	D	Donald O. Williams	Remarks on the bill
SCR 19	E	Donald O. Williams	Copies of newsletters about redistricting
SCR 19	F	Donald O. Williams	"District Information" webpage on the Nevada Legislature's website
SCR 19	G	Donald O. Williams	Handout concerning key issues about redistricting for the interim
SCR 19	H	Kathy Steinle	Written testimony