

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

**Seventy-Fifth Session
April 7, 2009**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 3:53 p.m. on Tuesday, April 7, 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
Assemblyman Ty Cobb
Assemblyman Marcus Conklin
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:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara Buckley, Clark County Assembly District No. 8
Assemblyman Bernie Anderson, Washoe County Assembly District No. 31

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Terry Horgan, Committee Secretary
Cheryl McClellan, Committee Assistant

OTHERS PRESENT:

Rose McKinney James, Las Vegas, Nevada, representing the Solar Alliance, N. Samautoma, Massachusetts
Jack Mallory, Director of Government Affairs, International Union of Painters and Allied Trades, District Council 15, Henderson, Nevada
Tom Clark, Carson City, Nevada, representing Cogentrix, Charlotte, North Carolina; Sempra Energy, San Diego, California; Standard Steam Trust LLC, Boulder, Colorado; and Black Rock Solar, San Francisco, California
Janine Hansen, State President, Nevada Eagle Forum, Elko, Nevada
Tony Sanchez, Las Vegas, Nevada, representing NV Energy, Las Vegas, Nevada
Alfredo Alonso, Reno, Nevada, representing Ausra Solar, Palo Alto, California
Joe Neal, Private Citizen, Las Vegas, Nevada
Keith Davis, Private Citizen, Las Vegas, Nevada
Derotha Ann Reynolds, representing the Homeowners and Bank Protection Act, Washoe County, Nevada
Dan Sussman, Private Citizen, Las Vegas, Nevada
Joe Johnson, Reno, Nevada, representing the Sierra Club, Toiyabe Chapter, Reno, Nevada
Matt Griffin, Deputy for Elections, Office of the Secretary of State
Sam Bateman, Deputy District Attorney, Clark County District Attorney, Las Vegas, Nevada

Chair Koivisto:

[Roll was called. Committee rules and protocol were explained.] We have a couple of housekeeping things to take care of. First, I have a bill draft that needs Committee introduction.

BDR 17-957—Makes various changes relating to the Legislature and the Legislative Counsel Bureau. (Later introduced as [Assembly Bill 535](#).)

ASSEMBLYMAN OHRENSCHALL MOVED FOR COMMITTEE INTRODUCTION OF BDR 17-957.

ASSEMBLYMAN MORTENSON SECONDED THE MOTION.

THE MOTION CARRIED. (ASSEMBLYMEN HORNE, KIHUEN, AND MUNFORD WERE ABSENT FOR THE VOTE.)

Assembly Bill 519 was referred to our Committee. Because this has a fiscal note on it, in order for this bill to have time to get a hearing, we want to rerefer it to the Assembly Committee on Ways and Means without a recommendation.

Assembly Bill 519: Creates a statutory commission to review continuation of state agencies, boards and commissions and tax exemptions, abatements and earmarked revenue sources. (BDR 17-1165)

ASSEMBLYMAN CONKLIN MOVED TO REREFER ASSEMBLY BILL 519 TO THE ASSEMBLY COMMITTEE ON WAYS AND MEANS WITHOUT RECOMMENDATION.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION CARRIED. (ASSEMBLYMEN HORNE, KIHUEN, AND MUNFORD WERE ABSENT FOR THE VOTE.)

We have three bills to hear today before we start our work session. We will start this afternoon with Assembly Joint Resolution 10.

Assembly Joint Resolution 10: Urges Congress to enact legislation requiring the Secretary of the Interior to convey ownership of certain land to the State of Nevada for the development of projects for renewable energy. (BDR R-686)

Assemblywoman Barbara Buckley, Clark County Assembly District No. 8:

I am proud to be here to discuss A.J.R. 10, a resolution urging Congress to release some land to Nevada to spur some renewable energy projects. Before the session started, I traveled around the state with a message that we can do better. We can diversify the economy and be less reliant on gaming and tourism so we can have a stronger base and a stronger educational system.

One way to diversify the economy is to look at ways for us to be leaders in renewable energy.

We have the sun, we have the wind, we have geothermal, we have biomass, and we have the potential to do even more. We have done much over the last several sessions. We have created a renewable energy portfolio standard and looked at demonstration projects, but there is more we can do.

One of the resources we have is land, yet 67 percent of Nevada's land is owned by the Bureau of Land Management (BLM). What if we got a few pieces of this land that were suitable for renewable energy development? What if we, as a state, offered the opportunity for individuals to partner with the state to generate renewable energy projects? We could create jobs, and we could create an energy source that is Nevada-based and non-petroleum based. We could do so much.

That is what A.J.R. 10 is all about. It is about harnessing our renewable energy resources; it is about job creation; and it is about being in charge of our own future. As a side benefit, a little bit more land in our state will be outside the hands of the federal government. This was one of the two ideas I got the best feedback from as I went statewide. The other was creating a forced savings account. There was not one person I met who did not think that a forced savings account was a good idea. So, that is why I brought this resolution. I am happy to answer any questions and urge your support.

Chair Koivisto:

Are there any questions from the Committee?

Assemblywoman Gansert:

Some federal land is leased for extraction of minerals. Would we do that with solar and wind, or would this be a turnover of ownership to the State of Nevada?

Assemblywoman Buckley:

Yes, right now there is a leasing process. We have the support of the Administration in Washington, D.C., to make it less cumbersome, but it is a time-consuming process. People must submit applications, and the federal government is very slow to process those applications. What this envisions is a pilot project: Turn over a couple of pieces of land to us so that we can jump-start the project—use our own procedures and our own controls. The federal process would still go forward, and their efforts to streamline it, hopefully, will be successful. So, that process would be complimentary.

I thought of this because we have done it before. I was inspired by my own Assembly District. Then-Congressman Bilbray passed a piece of legislation to grant a piece of BLM land to a nonprofit in my Assembly District to build a nonprofit senior citizens mobile home park. For those of you who live in Las Vegas, it is JC Mobile Home Park at Tropicana, Harmon, and Jones. What a way to make a project affordable, because the land is provided and we all know how much land costs. A few years ago, I asked Senator Reid to get a couple more pieces of BLM land to build the first State of Nevada affordable assisted living facility. Senator Reid introduced an appropriation act and got two pieces of BLM land given to the City of Las Vegas. We then did a request for proposal (RFP) to nonprofit organizations and said, "If the land is free, could you build an assisted living facility where individuals of modest means, on Social Security—possibly only receiving \$1,000 a month—could afford an option other than a nursing home?" It worked. The project is called Silver Sky Assisted Living, and it houses over 100 low income senior citizens. That project was made possible because of the free land. There is a 99-year lease, and the project is up and running. Why not do the same for job development and renewable energy? It jumpstarts the process, and we are in control. We also can put qualifications on the projects—such as financing being in place—so we know the project will "pencil out." This will ensure that it will be viable, as opposed to entering into a lease with whoever is first to apply.

Assemblywoman Gansert:

So the company that would lease the land for 99 years would still go through the environmental process, as well as all the other processes?

Assemblywoman Buckley:

Yes. The state would have to follow all relevant procedures—environmental, zoning, and holding neighborhood hearings. The entity would work with all affected local governments. Communities that are closer to projects can usually set up rules that, while environmentally friendly and in accordance with local zonings, have some flexibility. The federal government is regulating for the entire country and for so many different scenarios. We would be able to work with the BLM and set up rule-making that makes sense for a Nevada project.

Assemblyman Segerblom:

We cannot tax federal land, but will we be able to tax projects like these you are speaking of and generate revenue for our needed services?

Assemblywoman Buckley:

Any taxes that any business would be required to pay would apply to the project as well.

Chair Koivisto:

Are there any other questions from the Committee? [There was no response.]
Other people have signed in to support this resolution.

**Rose McKinney James, Las Vegas, Nevada, representing the Solar Alliance,
N. Samautoma, Massachusetts:**

We are here to offer our support for A.J.R. 10. Assemblywoman Buckley outlined the basis for that support. Over the course of the number of years that I have been working to advance solar development in this state, most of that work has been devoted to identifying and attempting to mitigate the barriers that are in place. One significant barrier relates to the availability of land in our state. While we have an abundance of the resource, we have significant limitations because of the high percentage of land that is owned by the federal government.

It is important to point out that the development of solar and other renewables in this state present a significant opportunity for us from an economic development standpoint. Also, I would note that the availability of land for large-scale development is extremely important, but I would not want to lose sight of the need to also consider smaller-scale development in the state. I believe this resolution accomplishes part of what is needed. Other policies and measures being considered this session would also give support for distributed generation as well, so we will have a holistic approach to development of solar resources in the state. I understand that there are significant issues related to the application process. It would be very helpful to have the opportunity for the state, as Assemblywoman Buckley indicated, to demonstrate leadership through ownership of this land for projects. I am very excited to see, and hopefully continue to see, the support coming from this Body relative to renewable energy development in this state.

**Jack Mallory, Director of Government Affairs, International Union of Painters
and Allied Trades, District Council 15, Henderson, Nevada:**

I want to thank the sponsors for introducing this bill. We support it for a couple of reasons. The primary reason, of course, is jobs. The job market in the construction sector has been suffering tremendously, especially over the last several months, and we do not see any immediate projections that indicate it is going to get any better. Projects of this nature do create jobs, and they also create incentives for other businesses to come to Nevada. Comments I hear often are that we need to have infrastructure, power, and people.

Tom Clark, Carson City, Nevada, representing Cogentrix, Charlotte, North Carolina; Sempra Energy, San Diego, California; Standard Steam Trust LLC, Boulder, Colorado; and Black Rock Solar, San Francisco, California:

I am here on behalf of Cogentrix, a large-scale utility, solar thermal company that has leases in southern Nevada; Sempra Energy, which has built 10 megawatts of solar photovoltaic (PV) in Boulder City; Standard Steam, a new player in the geothermal market in the northern part of the state; and Black Rock Solar, a small-scale developer. We wholeheartedly support this resolution. It reminds me of the Boulder City model and why you have seen two of the larger solar projects built in Nevada in the Boulder City area.

Boulder City owns the surrounding land. They have set aside thousands of acres for the development of an energy park. We lease land from Boulder City. They have already gone through most of the environmental issues, so developers do not have to worry about taking that one, big step that must be taken with BLM property. We lease from the City of Boulder and they receive revenue. We build our projects and can go forward.

This proposal would give the State of Nevada an opportunity to do the same as Boulder City. Once the state owns this land, there could be a decision to sell it to developers. The state could put out an RFP so you would know you are getting a good market price for the land. It would make it so much easier for utility-scale and distributive-generation-type projects to be built here in the state and would give us the jobs we need.

Cogentrix has six leases in southern Nevada. They have been working on the process with BLM for about two years. They are spending about \$2.5 million on environment scientists to look at the property. At the same time, they were able to buy land in Colorado for about \$1,800 an acre, and that land came with water. Their first project in the west will probably be built in Colorado because the systems and processes to construct these projects on private land are considerably easier than doing them on BLM land.

Janine Hansen, State President, Nevada Eagle Forum, Elko, Nevada:

In 2000, my brother organized the Nevada Committee for Full Statehood, which recognizes the burden caused by the federal government owning the land in Nevada. Nevada's cities are landlocked. In Lincoln County, only 1 percent of the county contains private land for property tax purposes. It limits our tax base and it limits our economic development.

This resolution is a wonderful way for the people of Nevada to understand that Nevada should have the right to the land in the state. Ninety-one percent of

Nevada's land is controlled by the federal government. I do not use the word "owned" because the federal government does not really "own" it. The federal government controls the land. They have usurped our land. The other states that came into the Union have control of their land.

This idea of getting the land for alternative energy is wonderful. Not only does Nevada have tremendous resources for wind and solar, we also have tremendous oil resources that have been undeveloped. In fact, between 1967 and 1973, Gulf Oil drilled three wells near McGill that would have produced 3,000 barrels a day or better, and that was about 50 percent of the national average. Texaco proved a field 15 miles south of Wells, and estimated the production would be larger than Bakersfield, which started around the beginning of the Twentieth Century and is still going today.

We have tremendous oil reserves, and if someone built a refinery, the State of Nevada could be self-sufficient and have a tremendous resource for economic development in the rural counties and provide a greater tax base. So, these kinds of ideas are very important for the development of our state. As we assert the fact that Nevada should have the resources available—the land in Nevada—we can continue to prosper in Nevada. I appreciate this bill and support it wholeheartedly.

Tony Sanchez, Las Vegas, Nevada, representing NV Energy, Las Vegas, Nevada:

I am speaking here today in full support of A.J.R. 10. We are in the business of building renewable-based, as well as natural-gas-fired, power plants, and from our company's perspective, development issues surrounding the building of those plants are of great concern to us. It is something we spend an inordinate amount of time on, and we are positive that a message like this to Congress is going to go a long way. We think our Congressional Delegation is already fully in support of what is being espoused in this bill. This is a message that needs to be sent to the Secretary of the Interior when you consider that Nevada is approximately 86 percent owned by the federal government. That poses unique problems when we are trying to develop projects.

As an example, it used to take approximately two to four years to permit a geothermal plant because most geothermal plants are on BLM land. Because of a lack of resources in our federal agencies, the developers are telling us that the process can take upwards of five to seven years now. You heard Tom Clark talk earlier about the Boulder City example. It is no coincidence that of the three largest solar projects that have been built in southern Nevada, which, by the way, makes southern Nevada the nation's leader per capita in solar, one

was on a military installation at Nellis Air Force Base and the other two were built in Boulder City. Boulder City had that land set aside by the federal government and went through the full environmental process 20 years ago. The land is ready and now being developed on a rapid basis.

We have proposed very large-scale installations everywhere from the Amargosa Valley to the Jackpot area on the Nevada-Idaho border where we are looking to build a 200-megawatt wind project. It is this kind of message, this kind of process, that will help us get those projects to fruition a lot more quickly.

The areas identified in A.J.R. 10 have already been identified by the state through numerous committees. The maps exist, and this is something that could be put together rapidly, and we look forward to working with the state. As the bill indicates, Nevada has a significant commitment to the development of renewable resources because of the existing portfolio standard. By all accounts, that portfolio standard stands to be increased at both the state level as well as the federal level where President Obama has indicated a desire to have a 25-percent standard by 2025. So this could not have come at a better time, and we are excited and look forward to working with the bill's sponsor as well as with this Body.

Alfredo Alonso, Reno, Nevada, representing Ausra Solar, Palo Alto, California:

I, too, stand in strong support of this bill. Probably the most significant issue we see in every jurisdiction is the regulatory process. Some states are more difficult than others, but each has its challenges and Nevada has theirs. We believe this is a great partnership between the developers, the state, and the federal government. We obviously support this concept, and think it would yield great benefits for the state and green energy.

Chair Koivisto:

Are there questions from the Committee? [There was no response.] I think we have taken testimony from everyone who signed up to speak. Does anyone from the public wish to testify on this either for, against, or neutral? [There was no response.]

ASSEMBLYMAN CONKLIN MOVED TO DO PASS
ASSEMBLY JOINT RESOLUTION 10.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

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

Vice Chair Mortenson:

We will open the hearing on Assembly Joint Resolution 11.

Assembly Joint Resolution 11: Urges Congress to implement the Homeowners and Bank Protection Act of 2007. (BDR R-850)

Assemblywoman Ellen Koivisto, Clark County Assembly District No. 14:

The bill in your books is missing most of the second page, so you are getting a copy of the second page ([Exhibit C](#)). The Homeowners and Bank Protection Act of 2007 is a resolution from cities and states to the Congress for the purpose of introducing a bill to immediately freeze foreclosures, halt evictions, and allow prices of mortgages to fall, deflating the bubble totally.

Over the last few years, we have seen home prices grow. For instance, a house you could buy 15 years ago for \$120,000, six, eight, or ten months ago was priced at \$350,000. There was nothing holding up that price except that mortgages were being packaged and sold and resold and resold. If you had tried to pay off your mortgage, no one could have told you who was holding the note.

Homeowners will keep their houses, but make far lower payments. It protects federal and state-chartered banks, keeping them open for regular business and personal accounts while moving to eliminate the speculative debt that has been accumulating over the past decade. This is not a bailout. There will be no taxpayer money spent, either to pay off the bad securities of the banks or to cover the lower mortgages.

In the 1930s, the government kept the banks open, lowered mortgages, and halted foreclosures. Business as usual will go on for the homeowner, businessman, and banker. This resolution has passed over 90 city councils including Indianapolis, Gary, St. Louis, Detroit, Buffalo, Akron, Philadelphia, Newark, Providence, Pittsburg, Birmingham, and Jackson, Mississippi. It has been introduced into more than 15 state legislatures including New York, Pennsylvania, Michigan, Indiana, Florida, and Missouri. It has passed five state legislatures, and there may be more by now because this information is several months old. The states that have passed this resolution include Rhode Island, Alabama, and Mississippi. It has passed the Vermont House and the Kentucky Senate.

The resolution was read at a hearing by Congressman John Conyers, Jr., and several congressmen have now come out for a freeze on foreclosures including Representative Danny K. Davis of Illinois and Representative Chaka Fattah of Pennsylvania. Former Treasury Secretary Henry Paulson called for a 30-day freeze in recognition of the pressure being generated.

Foreclosures across the country are skyrocketing. In 2007, two million properties were foreclosed on. Clark County, Nevada, has, I think, the highest number of foreclosures in the nation. One in 13 households is in some phase of the foreclosure process, which is a rise of 68 percent in just one year. Ohio ranks third in the nation. Home building is at a 20-year low. A year ago, home sales were down 30 percent. This year they are down even more.

According to the federal government, prices have fallen anywhere from 4 to 30 percent across the nation, and I think it is probably farther than that. The *New York Times* has reported that 8.8 million homeowners, or 10.3 percent of the total, are upside down in their mortgages: They owe more than their homes are worth. They cannot refinance, because they cannot get a loan for enough money to pay off what they owe.

The collapse of the banking sector is equally devastating. Someone the other day told me that car sales are down 52 percent this year. They were already down 30 percent last year. Is it any wonder that the auto industry is on the skids? The banks were given a bailout, but they are not lending money.

This resolution would let the government know that what it is doing is not working. We need to look differently at what is being done to resolve the problem. This resolution is modeled on similar initiatives taken to halt the foreclosure crisis during the Great Depression. Those initiatives were adjudicated favorably in the Supreme Court, including the famous Minnesota Mortgage Moratorium Act of 1933 which set the precedent for this action.

Joe Neal, Private Citizen, Las Vegas, Nevada:

I would like to explain how we got into this particular situation, and why this resolution is necessary. We now understand about subprime lending and how that caused a lot of people to purchase property, particularly homes. Then, the interest rates on those loans adjusted from the subprime rates of 3 or 4 percent to rates of 11, 12, and 15 percent. This was done to allow the banks to get money to engage in financial operations without considering the economy. In fact, the banks were just accumulating dollars. When the banks got into subprime lending, they then tranced these home mortgages into three categories. Category 1 was high risk; category 2 was moderate risk; and

category 3 was low risk. The low risk loans were sold to pension funds. There was not much movement on the moderate risk loans, but the high risk loans were sold to hedge funds. The hedge funds used those assets to make other investments. The tranced loans were sold by the banks as securities and then resold. The person at the end of this series of transactions got an insurance policy against some of the losses. The banks then used a financial mechanism we saw some years ago with the Enron crisis. It was an accounting principle called "mark to market" accounting. That is when you put up front a contract that goes over a period of years, say for \$20 million, and you book the value of that contract up front. Then, you are able to sell mortgages and other financial instruments based on that book value.

That caused leveraging of the banks' money of as much as \$30 to \$1. When people could not afford to pay their mortgages, the whole arrangement began to fail. Of course, the banks did not tell anyone what was going on with this arrangement. In fact, they hid most of what was happening to them. If the banks had allowed that information to be made public, the Federal Deposit Insurance Corporation (FDIC) would have come in and put the banks into receivership. That did not happen, and in fact, the FDIC was severely limited in knowing what was actually going on within these banks because they did not have the authority or the influence from the government to take a look at these arrangements. The banks were able to act very freely.

In this act, we are asking Congress to look at this arrangement and see it for what it is worth. The money you presently put into the banks cannot come back to the homeowners, because when you tranche those mortgages in bundles and sell them as securities, no one owns the individual mortgages. Last year there were two cases, one in Ohio and one in Florida, in which a couple of lawyers challenged a bank that wanted to foreclose on people in those states. The lawyers asked the banks to produce the mortgages, but they could not.

You have heard of AIG, the American International Group. They bought some of these mortgages. As an insurance company, they insured this paper—paper that had been sold to 70 million people in 101 countries across the world. Because the mortgages were bundled, the government has said one cannot initiate a default on these mortgages, because that would put the country in jeopardy. When you sell mortgages and insure these financial arrangements and sell them worldwide, you are utilizing the full faith and credit of the country.

We are asking Congress to introduce this act and pass it and allow the homeowners to stay in their properties and to freeze the mortgage rates at the subprime level. I made this same proposal last year when a hearing on the

foreclosures was held. I hope this Committee will take a look at passing this resolution. You will have done a good thing for the people of this country, because I do not believe putting money in the banks now is going to solve this problem. As you already have observed, the banks are not sending this money back down to the people. The fact is, there is no one to send it to because those mortgages have been bundled into securities so a lot of people own pieces of mortgages. No one actually owns the mortgages.

You, as legislators, are charged with serving the people of this country. Our founders, through the Preamble to the *Constitution* set out five principles of government:

- To establish justice.
- To ensure domestic tranquility.
- To provide for the common defense.
- To promote the general welfare.
- To secure the blessing of liberty for ourselves and our posterity.

Beginning with the Reagan Administration, the general welfare was left out. We thought about justice and we thought about law and order in terms of domestic tranquility. We thought about promoting the defense of the country but not about promoting the general welfare. We definitely thought about securing the blessing of liberty for ourselves and for our posterity, which turned out to be a selfish aim on the part of the banks.

So, what we are asking you to do is a simple thing: Urge Congress to take a look at this, as many of the cities across the country have done, and as many of the states are now doing.

Keith Davis, Private Citizen, Las Vegas, Nevada:

I have been in Nevada for 14 years. I was President of the International Brotherhood of Electrical Workers 396 that represented Nevada Power, now NV Energy, Sprint, and a few other entities. As president from 2002 to 2007, I also recognized that a lot of the members were struggling toward the end of 2007.

I came across the Homeowners and Bank Protection Act because I am a radio show host on KLAV, 1230 radio. I listened to a lot of individuals in the community struggling with their home mortgages. In 2008 and into 2009, a lot of individuals lost their homes and their jobs. The Homeowners and Bank Protection Act would protect individuals from losing their homes. I spoke about this possible resolution on my radio show from 2007 until 2008. At

conventions and other political events, I passed out information and warned people that bad things were going to happen. A lot of construction has shut down. I introduced this Homeowners and Bank Protection Act in January at the Democratic caucus, and it was approved and unanimously passed. Last Saturday, I presented it to Representative Shelley Berkley. She said that if it passed the State Houses she would consider introducing it in Congress. So, I appreciate your consideration in passing this Homeowners and Bank Protection Act.

Joe Neal:

I would like to point out that the banks are going to be opposed to this because this resolution has the effect of decentralizing the banks. When I came into the Nevada Legislature as a Senator in 1973, we had unit banking in this state. Unit banking means community banks that knew their customers. I think it is time we went back to the unit banking system across this country where the people would be in control of the money they put into those banks.

Assemblyman Munford:

Senator Neal, I represent your former district. Have there been many foreclosures or problems in our district in southern Nevada?

Joe Neal:

Yes, we have had a number of foreclosures in our district. As you probably know, southern Nevada, and in particular Clark County, now leads the Nation in foreclosures.

Assemblyman Munford:

Yes, I know. You and I had a meeting about this some time ago. I am happy to see that you are continuing to pursue this.

Derotha Ann Reynolds, representing the Homeowners and Bank Protection Act, Washoe County, Nevada:

I am the person who presented the Homeowners and Bank Protection Act to the Democratic Central Committee on March 28 in Las Vegas. It was passed unanimously.

I am here as a representative of the Homeowners and Bank Protection Act for the people who wrote this bill. The people who have lobbied for this across the country were the people who have pushed it through legislatures and city councils. We are the people who bug radio hosts, we are the people who irritate senators and committees, and I am so grateful for the courage of the people here to take a stance on this issue.

The people who are opposed to this bill are a faction of our government who have abandoned the will of the people. I am a tax preparer. I talk to a wide cross section of people. I was just talking to a gentleman who had attended a gun show recently in Reno. There were several elderly, single women buying guns to defend themselves against what they see as the demise of this nation.

The people in this country are angry. The people in this country are afraid. They see their legislators on a national level giving away their birthright to the people who are essentially having a party at the top and throwing away our tax dollars down a hole. It is difficult to measure the depth of despair people feel. They are giving up on the country. I have lost clients this season because some people are just not paying taxes anymore.

We have to tell them that we see them and that we care. This legislation challenges the central banking system. It says, "No, you are not in control of credit." It says, "No, you are not in control of interest rates." It says, "No, we do not have to honor your Ponzi schemes." We can put this huge debt into bankruptcy. We can take the time we need to sort this out. We can put up a firewall to protect the American people, and we can send this message to our national Congress and to the Senate and say, "Do this. We need you to show the courage to do this for the sake of this country, because this is it." The country has not come up against a bigger challenge in its several hundred years of existence.

The idea of the United States of America is that all men are created equal. The general welfare of the population is more than just a statement. It does not mean we give things to people; it means that a government should exist for the benefit of the human race and not for the whims of kings. We are going to lose this if we lose our structure, if we lose our ability to use our banking systems for our own needs. This bill not only protects the people; it protects our economy; it protects our banks and enables them to continue to serve us. What we are doing now in our national Congress is the bidding of these people who say, "No, this is not the country of the people; this is the country of the elite."

I beg you to pass this bill. Cities and state legislatures across the country are sending this message to their legislators and congress people saying, "Protect us. Take the government into the hands of the people. Protect our *Constitution*, protect our civil liberties, and protect our neighborhoods." Keep the people in their homes. Give them some dignity; give them back a productive economy. Let us know how wealth is created. Wealth is not a function of money. Money has no value that is not given to it by a government. Money is a function of being able to transform nature for the benefit of

mankind. That is what wealth is. Money is just an adjunct to that. It is just a medium of exchange, and we have to put it back in that perspective and take back the United States of America. Please, show some courage and pass this bill.

Assemblyman Hambrick:

It would have been nice if you had presented a reasoned and even tempered argument. I object to your rhetoric.

Jack Mallory, Director of Government Affairs, International Union of Painters and Allied Trades, District Council 15, Henderson, Nevada:

In the month of January of this year, I attended a housing outlook seminar in Las Vegas. They discussed projections for the near future. We are continuing on a downward spiral on the issue of foreclosures. Foreclosures are not supposed to hit a peak until sometime mid-year to late-year 2011. That is when a majority of the subprime loans will have finally corrected. The biggest problem with this situation is that all the foreclosures have created a liquidity problem within the banking system in the country. This has affected the construction industry in a particularly difficult way. When you speak about halting construction on projects on Las Vegas Boulevard such as the second tower at the Trump project and numerous other projects because of the current financial situation in the country, it has more to do with the ability to obtain money than it does with the ability to obtain a workforce to perform the work or to obtain the materials to build the projects. At this point, the biggest obstacle is the ability to attract people to actually go to these new properties.

This has been a strong downward spiral for our organization and for others as well. I heard folks testify that the northern building trades are experiencing approximately 50 percent unemployment. I represent 4,500 working families in southern Nevada, and about 30 percent of the members in our organization are unemployed. At the end of this year, we expect that number will rise to approximately 50 percent. It is largely due to a lack of liquidity in the market.

It was well publicized that the Echelon project did not move forward because the third partner was unable to secure financing for their portion of the construction. This is a big problem, and I believe legislation of this nature would, at the very least, stop the downward spiral and put some type of stability in the system. That would allow folks to stay in their homes and continue making payments they can afford, and it would contribute to the liquidity in the system. This is not something that is coming from the federal government in the form of a bailout.

I bought my home in 2005 for \$191,000, and I could not sell it for \$70,000 today. There is a larger home around the corner listed for that. I am lucky that I am on a fixed-rate note.

Chair Koivisto:

Thank you. Are there any questions from the Committee? Seeing none, and since I have no one else signed up either in support or in opposition to this, I will bring the bill back to the Committee. Is there any public testimony before I close the hearing on this bill? All right, I will close the hearing on A.J.R. 11 and open the hearing on Assembly Joint Resolution 14.

Assembly Joint Resolution 14: Urges the United States Environmental Protection Agency to grant California a waiver to achieve certain reductions in greenhouse gas emissions from motor vehicles. (BDR R-5)

Assemblyman James Ohrenschall, Clark County Assembly District No. 12:

Assembly Joint Resolution 14 urges the Administrator of the United States Environmental Protection Agency (EPA), Lisa Jackson, to grant the State of California a waiver to achieve certain reductions in tailpipe greenhouse gas emissions from motor vehicles. Our state is a frequent host to millions of California drivers. The proposed standards on greenhouse gas emissions have favorable implications on Nevada's air quality as well as benefitting the global environment.

The emission issue is a lot bigger than just affecting California; it actually affects the whole country. Thirteen states and the District of Columbia follow California's tailpipe emission standards for cars and light trucks. If California is granted this waiver, then California and the 13 other states and the District of Columbia will be able to set standards for new cars and light trucks that will be sold in future years. They have to produce less carbon dioxide, and under the laws of physics, the only way for a vehicle to produce less carbon dioxide is for it to be more efficient—for it to burn less gasoline. The benefits will be cleaner air and less dependence on oil, which, increasingly, is coming from overseas.

If California is granted this waiver, it is very likely that the automobile industry will not produce two different versions of cars—one for the rest of the country and one for California and the 13 states that follow its standards. They probably will manufacture cars to meet the higher standards set by California, so the whole country will actually reap the benefits in terms of cleaner air and less consumption of fossil fuels.

Resolutions similar to this one have been introduced and are working their way through the Legislatures of Illinois, Massachusetts, Vermont, and Washington. I believe 40 different waivers have been granted to California by the EPA in the last three and a half decades. This last waiver was the first time a waiver was turned down. President Obama asked the new Administrator of the EPA, Lisa Jackson, to reconsider the decision of her predecessor. She is reconsidering and currently taking comments from people around the country, which is why these resolutions are being introduced in Nevada and in other states. Hopefully, if there is enough support to let California regulate greenhouse gas emissions from tailpipes, she will reverse the prior decision and continue this long tradition of granting California waivers. I think we will all benefit because they are our state to the west and so many of their citizens drive their cars across the state line into Nevada. We will also benefit because, in the future, more efficient and cleaner cars will be sold across the entire country.

Chair Koivisto:

Do you think if that passes and California get its waiver and it spreads across the country, that we will not have to do our emissions checks anymore?

Assemblyman Ohrenschall:

That is a very good question but I am not qualified to answer it. I know there is a lot of new technology and cars can be tested based on one computer talking to another computer. The computers determine if everything is working right so there is no need to stick a sensor in the tailpipe as they do on the old cars. The testing is becoming easier, but I am not certain about doing away with the testing altogether.

Assemblyman Segerblom:

This is a very appropriate bill, and I want to thank Mr. Ohrenschall.

Chair Koivisto:

Are there any other questions from the Committee? [There was no answer.] We will now hear from those in favor of the bill.

Dan Sussman, Private Citizen, Las Vegas, Nevada

The Environmental Law Society of Boyd School of Law wholeheartedly endorses this resolution. I would like to make a few points. Motor vehicles are significant contributors to greenhouse gases. According to an EPA study, from 1990-2006 they were responsible for 24 percent of greenhouse gas emissions and creeping up.

Humans possess extensive technological capability to reduce the carbon footprints of vehicles. Toyota is going to put some solar panels on its cars. Hybrids clearly increase gas mileage. Battery technology is improving all the time, and you can select what kind of energy on the grid supplies your electricity.

There is an overwhelming sense that global warming is a planetary emergency and everyone knows that now. I would have to characterize as malevolent anyone who does not recognize that, and on the wrong side of the issue regarding our planet. Right now, there are 379 parts per million of carbon dioxide in our atmosphere. That is up from the historical level of 250 parts per million until the start of the Industrial Revolution only 200 years ago. It is the highest level we have had in 650 million years on our planet. Of the 12 warmest years on record, 11 have occurred in the last 11 years. The only reason we are a living planet out of millions or billions of orbs in the universe is because we have an atmosphere. That atmosphere is very thin. It is 62 miles thick, and 75 percent of our atmosphere's mass is within the first 6.8 miles of the earth's surface.

We will not be able to persuade other nations to join a concerted effort against this planetary emergency if we are lagging in the effort. We were laggards under the Bush Administration, but things look very encouraging under the Obama Administration. We are at a moment of critical mass. We are getting the automakers to abandon the deleterious privilege they have had to disregard greenhouse gas pollutants. Our new President appears to understand that as does Lisa Jackson. This is very encouraging. It appears President Obama understands the leverage inherent in the moment when the industry leads only with its outstretched hand seeking bailouts.

I wholeheartedly endorse this resolution. It would be a tragic oversight to neglect requiring automakers to incorporate these sound guidelines when they are already going to be drastically retooling. We are at that magic moment.

Joe Johnson, Reno, Nevada, representing the Sierra Club, Toiyabe Chapter, Reno, Nevada:

We are in support of this resolution and encourage you to vote for it. It is a good bill.

Chair Koivisto:

Are there any questions from the Committee? We are missing Committee members so we will not take a vote on this today. Is there anyone else who wishes to offer testimony on this either for, against, or neutral? [There was no

response.] All right, we will bring A.J.R. 14 back to the Committee and close the hearing. Now, we will go into our work session.

Patrick Guinan, Committee Policy Analyst:

We have three bills on our work session today. You have a work session binder in front of you, and the first bill we are going to look at is Assembly Bill 82.

[Assembly Bill 82](#): Makes various changes relating to elections. (BDR 24-417)

Patrick Guinan, Committee Policy Analyst:

This is the Secretary of State's omnibus elections bill. I think the Committee is fairly familiar with this one as we have heard it twice. Today in the work session we are going to try to accomplish what we said we would at the end of the last work session, which is to go through amendments that were proposed based on the discussion at the last work session. If you will look in your work session binder, you will find a mock-up of the bill ([Exhibit D](#)). At the end of the mock-up are some pages with amendments ([Exhibit E](#)). As we discussed last time, unless the members have questions, I am just going to stick to the amendments on these pages that have been worked out by the Secretary of State in response to the discussion from last time.

The first amendment amends section 1.4, subsection 3 of the bill and contains amendments proposed by Larry Lomax and other election officials concerning voter registration applications. The proposed amendment in section 1.4, subsection 3, paragraph (a), changes when an application has to be personally delivered to the clerk from 15 calendar days to 10 business days. It makes the same change in paragraph (b) if the application is mailed to the clerk. Then, there is a final piece to that amendment which reads, "Applications must be forwarded daily during the two weeks immediately preceding the fifth Sunday preceding an election." I think that amendment was one the Committee was comfortable with.

Amendment number 2 addresses section 5 of the bill. This comes from the Secretary of State's Office and changes the time period after the language: "After a person files a declaration of candidacy or an acceptance of candidacy to be a candidate for an office, and not later than...." It changes from 15 to "10 calendar days after the last day the person may withdraw his candidacy..." for a challenge to be filed.

The third amendment addresses section 29.3 of the bill. This was brought up by Assemblywoman Smith and others during the discussion regarding expenditure filings, and essentially puts in a threshold of \$100 for filing when

someone makes an expenditure on behalf of a candidate or group without the expenditure having been solicited by that candidate or group.

The fourth amendment addresses section 32 of the bill. This was an issue that was raised by Assemblyman Conklin. The Secretary of State's Office has addressed it in the following way: It adds a subsection 2 to *Nevada Revised Statutes* (NRS) 294A.100 saying that a person shall not make or commit to make a contribution or commitment prohibited by subsection 1.

The fifth amendment addresses section 32.2 of the bill, which was also an issue that was raised by Assemblyman Conklin and other members of the Committee. It deals with electronic filing. At the bottom of that section in italics is a sentence that reads, "All reports required to be filed pursuant to this section must be filed electronically beginning January 16, 2011." The concern was voiced in Committee that it would be good to give folks some time to get ready for this, and I believe this is a compromise that the Secretary of State's Office feels works for them. Does anyone have questions? [There was no response.]

Section 35 of the bill deals with the dissolution of a legal defense fund. You can see that the stricken language removes language that was initially included inadvertently. The effect of this proposed amendment would require that unspent money from a legal defense fund can be used in the following ways:

- Returned to the contributors.
- Donated to any tax exempt nonprofit.
- Disposed of in a combination of those two ways.

It removes language that would have allowed donations to a political party or group. That is amendment number six.

The seventh amendment addresses section 44.3 of the bill. I want to point out that amendments 7, 8, 9, and 10 are all amendments that are related to issues brought to our attention by the Ethics Commission and the Administrator of the Courts. Essentially, what all these amendments do—7, 8, 9, and 10—is remove judicial officers from these filing requirements and clarify that the Secretary of State's Office only receives appropriate filings and the Administrator of the Courts receives appropriate filings. That is the extent of those amendments.

Last, there is an amendment that is not numbered. It is mirror language to the language that we spoke about in amendment number 5. It adds at the very end of the paragraph the same language we had before which is that "A person shall

not make or commit to make a contribution or commitment prohibited by subsection 1." This is regarding the blackout period when you are not allowed to either solicit or accept campaign contributions.

And that is it for the proposed amendments from the Secretary of State's Office and as a result of what was worked out last time in Committee. There are also amendments in your work session binder ([Exhibit F](#)). We talked about this last time. These amendments are proposed by Janine Hansen. I have noted there that the Secretary of State's Office has indicated that they do not support these amendments. They were submitted for the Committee's consideration. That is all the amendment language we have for A.B. 82.

Chair Koivisto:

Are there questions or concerns from the Committee?

Assemblyman Settlemeyer:

I still do not like the idea of limiting it to electronic filing, because I think you deter people from running for office, and I will be voting "no."

Chair Koivisto:

Is the electronic filing your main issue with this bill?

Assemblyman Settlemeyer:

I have other issues in other sections as well. I am not sure they can be fixed at this time, and I know we need to get this bill out to get it to the Senate. Maybe my issues can be solved elsewhere.

Assemblyman Conklin:

I have a list of concerns starting with the amendment to NRS Chapter 294A. I think we also discussed putting that same language in NRS 294A.100 so it is clear that a person donating during this period, donating during the blackout, or donating at any other time when he is not supposed to is also in violation of the law.

Matt Griffin, Deputy for Elections, Office of the Secretary of State:

That is correct, and I believe that language is in there. I am showing it in the amended section 32.

Patrick Guinan:

Mr. Conklin, the amended section 32.2, is amendment 5.

Assemblyman Conklin:

All right, I have it and we are good. That was my first issue and I am okay with that one. My second question involves page 38 of the mock-up of the bill starting on line 11. This is section 29.4. I recognize that some of the Committee members had concerns about electronic filing, but there are not many people left who do not have a computer and an opportunity to file that way. Setting the date out to 2011 means that will be an off-cycle year. For that calendar year, you can start collecting and posting online, and I think I am okay with that. My only concern is that this section requires that anyone who gets a check larger than \$1,000 must deposit that check within 48 hours. Has that been deleted somewhere?

Patrick Guinan:

I apologize to the Committee. That is my error. I neglected to mention that the Secretary of State has deleted that entire section from the bill.

Assemblyman Conklin:

So, that is out, as well?

Patrick Guinan:

Yes, was the 48-hour filing taken out?

Matt Griffin:

That is correct.

Assemblyman Conklin:

In the amended portion where the electronic filing takes place, does that also include electronic filing of financial disclosure forms?

Matt Griffin:

That is correct.

Assemblyman Conklin:

So, everything goes electronic on that day with an exemption for people who do not have access to electronics, because they can file with you and you will take care of it?

Matt Griffin:

Correct. The January 16, 2011, date means that any reports required after January 16, 2011, will be electronic.

Assemblyman Conklin:

So, the person who files on January 15, 2011, for the previous year or the last two months of the previous year, does not have to file electronically although he could because the system is already set up. So, people who want to try it out between now and then and offer you some feedback could do so?

Matt Griffin:

That is correct.

Assemblyman Conklin:

Madam Chair, those are all of my concerns for the moment.

Assemblyman Segerblom:

I raised this question the other day. I am concerned about 3,000 people per precinct. With reapportionment coming up, I do not want to see them consolidate precincts right before reapportionment which would make it harder for us to use voter history when we are designing districts. That is on page 16 of the mock-up. I would like there to be no change at all, or push it back to 2012.

Patrick Guinan:

Mr. Segerblom, it is my understanding that no consolidation of precincts would take place. The precincts will remain in place, but they will just have more people in them so that they do not have to be redone.

Assemblyman Segerblom:

When I asked Mr. Lomax about that, he said that he could not say that he would not be consolidating precincts. He said he would take the voter history from the two precincts when they were combined, and that is my concern. It does not say that you cannot consolidate precincts. I am concerned given the fact that we are reapportioning right now and do not want to lose any voter history.

Assemblyman Conklin:

Could I offer an amendment to ease Mr. Segerblom's concerns? After line 21 but before line 22, insert one of those little arrows that says, "this section cannot be used for the purpose of consolidating; only for the purpose of breaking up current precincts."

Assemblyman Segerblom:

That will still do the same thing.

Assemblyman Conklin:

How is that going to do the same thing if you can only break up precincts and not use this maximum number of voters as a consolidation? That is your issue.

Assemblyman Segerblom:

But, breaking a precinct up still destroys the voter history. What we are trying to do is retain voter history until 2011 when we will reapportion.

Assemblyman Conklin:

Yes, but right now they can be broken up at 1,500 voters. If you want to preserve voter history, you would want to allow the number to rise without the right to consolidate. Am I incorrect in my thinking, Mr. Griffin?

Matt Griffin:

No, that would be my understanding. We would not have an objection to that type of amendment, and I think it would handle Mr. Segerblom's concern. I can promise the Committee that I will take this amendment up with Mr. Lomax, because this was a request from the county clerks and registrars. Should this bill make it to the other House, I will keep Mr. Segerblom's concern in mind.

Assemblyman Segerblom:

As long as you are looking at it.

Chair Koivisto:

Are there other questions or concerns about other parts of this bill? I know it is 72 pages long and complicated, but this bill is designed to allow the Secretary of State to run elections more efficiently. I would like to get a mock-up of this bill to look at before we vote it out, so everyone can be sure their concerns have been met. There is so much in this bill.

Matt Griffin:

This is the only elections bill any state entity can bring, and we have created a table of contents for it. I would be more than happy to update that once we get a copy of the mock-up and get it to all the Committee members if you would like.

Chair Koivisto:

That would be a big help. All right, is there anything else from the Committee on this bill? [There was no response.] We will close the hearing on this bill and bring it back to Committee. Let us take up Assembly Bill 190.

Assembly Bill 190: Establishes a moratorium on the execution of sentences of death and provides for a study of issues regarding the death penalty. (BDR S-764)

Patrick Guinan, Committee Policy Analyst:

The next bill on the work session is Assembly Bill 190. [Mr. Guinan read an explanation of the bill and its hearing from prepared text ([Exhibit G](#)).]

Chair Koivisto:

What I am getting from the Committee is that they would prefer the moratorium not be in the bill. It is important to study this, but there is no appetite for a moratorium. Are there any comments or questions from the Committee?

Assemblyman Cobb:

I think it is a wise move to eliminate the moratorium. I still have the same concerns I presented during the committee hearing about the study itself and especially about the way it is phrased. It is fairly one-sided and does not seek to find any cost savings there might be by having the death penalty on the books, so I think we would be missing out on having a full examination of the issue from both sides. Frankly, we heard over an hour's worth of testimony, including from the district attorneys' offices, suggesting that it does cost more to prosecute a death penalty case. It seems as though we would not need a study at greater cost to the State of Nevada to tell us that again. I would encourage us to either change the language to make it more balanced in terms of what we are studying, or not move forward with a study we already know the answer to.

Assemblyman Bernie Anderson, Washoe County Assembly District No. 31:

I think it is important to have the study. The first study we had done recommended that we continue and "close this part of the envelope." I would have preferred that a moratorium was established with it. I felt the suggestion to preclude the consideration of a moratorium was probably the way the bill should have come out of bill drafting. I think the study is the most important part of this, so legislators will have the necessary information to make informed decisions. In my discussions with the Auditing Division, they indicated they would be able to do this without any problem.

Chair Koivisto:

In reading the digest, I think "examination and analysis of the costs" would be a pretty thorough study of costs, and I am not sure what savings we would be looking for. I am not sure how we could put that thought in the bill.

Assemblyman Cobb:

There was discussion toward the end of the hearing when opposition to the bill was heard from the district attorneys and the Attorney General's Office. Their idea was that, with the death penalty on the books, offenders sometimes are persuaded to accept life in prison instead of going through any type of trial, which means we would be saving all costs associated with a prosecution. We say we are merely going to examine the costs, and it is explicitly written that way in the bill. It does not say "as well as the cost savings of having the death penalty on the books as an option for a prosecutor," so we are not going to get the full story, as was testified to at the hearing by the district attorneys.

Assemblyman Segerblom:

I thought one of the reasons to do this was to avoid having to build a new death chamber, pending the outcome of the study. I would hope that would be one of the consequences. Also, I would hate to think that we are using the death penalty to pressure people into taking pleas so we can save money. To use the death penalty for that purpose seems outrageous.

Assemblyman Conklin:

As a practical matter, the term "cost" is both a positive and a negative number. You used the term "cost" and then you said "cost savings." It is a "cost" and I do not think that wording precludes anyone from determining what that total cost is. You add up what it costs and subtract from that what you saved and come up with a reasonable number. To add the word "savings" seems redundant in this language.

Assemblyman Cobb:

If I were to say, "How much does it cost to drive from here to Pahrump?" that would not include an analysis of how much I saved by not flying. If we say, "How much does it cost to prosecute a death penalty case versus a prosecution for life imprisonment," it does not include how many times over the last 20 years, 30 years, or 10 years Nevada's criminal justice system used the fact that it has a death penalty on the books in lieu of any trial whatsoever. That is my concern.

Assemblyman Conklin:

I think you have reduced this to absurdity. The language here says, "a staff study of the fiscal costs associated with death penalty in this State." It is the whole process.

Chair Koivisto:

Let me interject. It says, "...the cost of prosecuting and adjudicating capital cases compared to noncapital cases." I think that language encompasses what we are talking about. Are there other questions or comments? [There was no response.] All right, Committee, with the moratorium out ...

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 190. THE AMENDMENT WOULD REMOVE THE
MORATORIUM AND LEAVE THE STUDY TO BE CONDUCTED.

Before I take a second, do you want to put language in the bill to ensure that cost savings are part of this?

Assemblyman Horne:

I think the language in the bill speaks for itself.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Chair Koivisto:

We have a motion from Mr. Horne and a second from Mr. Ohrenschall. Is there any discussion?

Assemblyman Hambrick:

I do not know if we need any more technical information at this point, but we do have a member of the District Attorneys' Association in the audience. If this bill is going forward, and I am not at this point necessarily in favor of the bill, maybe he has some technical information on the requirements that they would like to see in any type of study. We have heard from one side but not from the other.

Chair Koivisto:

Actually, I think the district attorneys gave us their input when we had the hearing.

Assemblyman Segerblom:

I think the testimony was that they supported the bill other than the moratorium.

Chair Koivisto:

Yes, that is pretty much what they said. Are there any other comments or questions?

Samuel Bateman, Deputy District Attorney, Office of the District Attorney, Las Vegas, Nevada:

The testimony was that we certainly would welcome a study, if that was the direction that the Committee wished to go. I think Mr. Hambrick's and Mr. Cobb's concerns adequately addressed our concerns. We were skeptical of the study going forward when you do not explicitly incorporate the kind of potential "cost savings"—that might be the best term to use—by having the death penalty on the books. A second issue of cost concerns any deterrent effects that might come from having the death penalty on the books. We might be precluded from having to try more murder cases because they would have been deterred due to our death penalty. I think some of those issues were concerns of the district attorneys' offices at the time of the hearing. We expressed welcome for a study, but some skepticism about the way it might not incorporate important factors.

Chair Koivisto:

In section 2, subsection 2(b), the language reads "Additional procedural costs involved in capital murder cases as compared to noncapital murder cases...." Do you not think that language covers that? As I pointed out at the hearing, this study would be conducted by the Legislative Auditor, and I do not know that there is anyone who is more fair and evenhanded.

Assemblyman Conklin:

Item (b) has several subparagraphs to it and the key phrase is "including, without limitation, costs [a positive or negative] relating to," and there is a whole list including sentencing, juries, expert witnesses, pretrial motions, and investigation of the crime. I do not see how this language covers it any more on both sides of the issue, and not to mention the record we are creating right now.

Sam Bateman:

I was just going to note that we are creating a legislative history concerning what I think was intended by this Committee were any study to go forward.

Assemblyman Cobb:

I agree with the witness, and therefore we do not need to keep belaboring the point. The point I was going to make is that when you elaborate in such detail only costs and nothing that suggests a cost savings, such as avoiding trial, if an independent person were to read this without the legislative intent, I am skeptical that the person would go the extra step and find out how many times in Nevada's history we have been able to plead people out without a trial cost.

That is the point I was just trying to make, but I agree that we have set the record straight here.

Chair Koivisto:

Are there other questions or comments?

THE MOTION PASSED. (ASSEMBLYMEN COBB, HAMBRICK, AND SETTELMAYER VOTED NO. ASSEMBLYWOMEN GANSERT AND SMITH WERE ABSENT FOR THE VOTE.)

Now, we will go to Assembly Bill 293.

Assembly Bill 293: Makes various changes concerning appointments by the Governor to certain offices within the Executive Branch of State Government. (BDR 18-761)

Patrick Guinan, Committee Policy Analyst:

The last bill in your work session binder for today is Assembly Bill 293. [Mr. Guinan read an explanation of the bill and its hearing ([Exhibit H](#)).]

Chair Koivisto:

There were concerns by members of the Committee about the length of time an appointee would not know if he had a job or not. There were also concerns that an appointee could be rejected after, perhaps, moving his family here from somewhere else and that would not be a good thing.

In addition, there was talk about an interim appointment. My suggestion for dealing with the interim appointment before the nominee is approved would be that the highest ranking officer currently in that department, whether an assistant director or someone else, would serve as the interim director until a nominee was confirmed.

Assemblyman Cobb:

Are you talking about a scenario where an individual is appointed by the Governor and then, either during that 90-day period or at the end of that 90-day period if the appointment failed, there would be no one in that position? I thought the bill, as it was written, allowed the person to actually be appointed for that 90-day period.

Chair Koivisto:

If the legislative committee does not schedule a hearing in a timely manner, or if the Governor does not make his appointment in a timely manner, rather than leave an agency without a director, there should be someone in charge.

Assemblyman Cobb:

I understand the scenario in which the Governor does not appoint someone, but if the Governor does appoint someone and the legislative committee starts to review that person, according to the language of the bill, that person is actually in that position.

Chair Koivisto:

That is correct. I spoke about this with Mrs. Gansert, but I think the Governor would be very thoughtful about his appointees if they had to be vetted by a legislative committee.

Assemblyman Bernie Anderson, Washoe County Assembly District No. 31:

I think this legislation is important in terms of the process. A question raised by both Mrs. Gansert and Mr. Munford at the initial hearing involved what would happen if the committee did not take action or move in a timely fashion. I suggest that we could solve that problem by closing the window to a shorter time frame—60 days—and, if the committee had not met within that 60-day time frame, those appointments would become automatic and stay in place. Thus, the onus is on the Legislature to take action and protect its position and assert its authority. If it does not, within a 60-day time frame, the Governor's appointments stand, unchallenged by the Legislature. If the Legislature wishes to assert its authority, it may do so, and this committee has the responsibility of taking up that question and doing the due diligence that is outlined in the bill. I think that is the solution. The Governor's appointments will stand, but, unfortunately, the inference that might be drawn is that the only time this group is going to meet is if it has a problem, which was not my intention. Most of the appointments will go through unchallenged with little or no controversy, but the opportunity for a public vetting will be there, and we will have to see how future Legislatures act with this newfound authority.

Assemblyman Settlemeyer:

If the Legislature does not take action, for whatever reason, it will not be a pocket veto?

Assemblyman Anderson:

No, if the committee does not meet within the 60 days, then the appointment stands.

Assemblyman Settlemeyer:

I am still bothered by the concept that no action would mean a rejection. We owe a duty to any appointee to make a decision. If we, as a Legislature, do not make a decision within a time frame, then, to me, that is an automatic acceptance.

Chair Koivisto:

That is what the discussion was. If the legislative committee does not meet and take action, the appointee stands.

Assemblyman Settlemeyer:

I think the way you are wording it, though, is that they do not meet. What if they meet and do not take any action? Would that be a rejection as the bill currently stands? I am saying that the onus is on us; we have a responsibility. We are taking something away from the Governor and saying that the Legislature should have input, and I agree with that. But then we have a duty to make a decision within that time frame.

Assemblyman Anderson:

The onus is on the committee to say either "yes" or "no." If the committee chooses not to make a decision after having met, then the outcome is going to be a "no" and not a "yes." You would like it to be "yes," but if the committee chooses to avoid the issue in its entirety, then it is not carrying out its legislative responsibility, and the public would have a right to complain. The criticism should go to the Legislature for its failure to act rather than to the Governor for his poor appointment. Making a decision takes responsibility and puts the Legislature on the "hot seat."

There has to be a consequence for the committee not reaching a decision. If the committee could not be convinced that the appointment was a positive, then you would have to say it was a negative.

Assemblyman Settlemeyer:

Thank you for your clarification. I am still troubled by that.

Assemblyman Hambrick:

This is a good step forward, and I am all set to support it, but, along with my colleague from the north, once the committee meets, I still believe that they should come to a decision. I realize Mr. Anderson is of the opinion that not deciding is a decision, but that is not fair to the possible appointee. The committee needs to come to a definitive decision "yea" or "nay."

I like the concept in this bill, and I think any Governor would appreciate the fact that there would be a decision coming down in 60 days. As this House does its work, a Governor would know what was happening. This process would not be conducted in a vacuum.

But, I think both the possible appointee and a Governor deserve to have an answer either "yea" or "nay" within 60 days.

Chair Koivisto:

Are there any other comments or questions from the Committee?

Assemblyman Conklin:

Mr. Anderson, help me out with the logic here. Section 1, subsection 1 reads that the Governor appoints a person to any of the enumerated offices. The appointment is effective for 90 days after the date of the appointment, but is not effective after that time unless the appointment has been confirmed by the legislative committee on appointments created pursuant to section 4 of this Act, so there must be a confirmation, right?

Assemblyman Anderson:

Correct.

Assemblyman Conklin:

If you delete subsection 3—which basically says if the committee does not meet, that is an automatic rejection—then any meeting that does not take a vote is an automatic vote to not confirm. Or, do you have a responsibility to take a vote?

Assemblyman Anderson:

It had been my intention that the committee was to meet within 60 days of the appointment. If there is not a positive outcome from the meeting affirming the appointment, then the appointment fails.

Assemblyman Segerblom:

I like the concept of 90 days. That gives us plenty of time to get all these committee members together, because that might be hard to do. If the committee does not meet, the appointment is confirmed. If the committee does not turn the appointment down, the appointment is confirmed. So, the committee must vote to turn the appointee down. That individual has already spent 90 days working in the office, and I think the Legislature has an obligation to come back and say, affirmatively, "We do not want you." I think it would be better to have the committee affirmatively turn the appointment down.

Assemblyman Anderson:

I guess I am more concerned that we take the opportunity to put together a committee to review the appointments. I would prefer to see the committee vote affirmatively, but I do think we should recognize that there is an opportunity to vote negatively. And if the committee votes negatively, that would be an automatic rejection of that appointee, and the Governor has to reappoint.

Assemblyman Segerblom:

Right, the Legislature would have a role in the appointment process which we do not have now.

Assemblyman Anderson:

I do not think the committee should be able to waffle. I think Mr. Settlemeyer is correct.

Chair Koivisto:

Are there any other comments? I really like this concept, too. I think being able to have some input is important. There are a few little details we have to work out yet, so we will close the hearing on this bill and bring it back to Committee and try one more time. Do we have anything else to come before the Committee? Seeing nothing, we are adjourned [at 6:09 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 7, 2009

Time of Meeting: 3:53 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
AJR 11	C	Assemblywoman Ellen Koivisto	Missing page of the bill
AB 82	D	Patrick Guinan	Mock-up of the bill
AB 82	E	Patrick Guinan	Proposed amendments
AB 82	F	Patrick Guinan	Additional proposed amendments
AB 190	G	Patrick Guinan	Explanation of the bill
AB 293	H	Patrick Guinan	Explanation of the bill