

**MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-fifth Session
May 5, 2009**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Joyce Woodhouse at 1:46 p.m. on Tuesday, May 5, 2009, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Joyce Woodhouse, Chair
Senator Bernice Mathews, Vice Chair
Senator Valerie Wiener
Senator William J. Raggio
Senator Barbara K. Cegavske
Senator Warren B. Hardy II

COMMITTEE MEMBERS ABSENT:

Senator John J. Lee (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Bernie Anderson, Assembly District No. 31
Assemblyman Tick Segerblom, Assembly District No. 9
Assemblywoman Debbie Smith, Assembly District No. 30

STAFF MEMBERS PRESENT:

Brenda Erdoes, Legislative Counsel
Pepper Sturm, Committee Policy Analyst
Makita Schichtel, Committee Secretary

OTHERS PRESENT:

Michael Pescetta

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Stephen J. Dahl

Richard L. Siegel, President, American Civil Liberties Union of Nevada

Maizie Pusich, Chief Deputy Public Defender, Washoe County Public Defender's
Office

Byllie D'Amato Andrews, Cochair, Nevada Women's Lobby

Diane R. Crow, J.D., State Public Defender

Rebecca Gasca, American Civil Liberties Union of Nevada

Larry D. Struve, Religious Alliance in Nevada

Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance of
Nevada

Sam King, President, League of Women Voters of Nevada

Mark Nichols, Executive Director, National Association of Social Workers,
Nevada Chapter

Reverend Jane Foraker-Thompson, Religious Alliance in Nevada; Social Justice
and Prison Ministry, Episcopal Diocese of Nevada

Sam Bateman, Deputy District Attorney, Clark County; Nevada District
Attorney's Association

Juanita Clark, Charleston Neighborhood Preservation

Lynn Chapman, Nevada Families

Janine Hansen, Nevada Eagle Forum

John Wagner, Independent American Party

Guy Louis Rocha

CHAIR WOODHOUSE:

We will open the hearing on Assembly Bill (A.B.) 190.

ASSEMBLY BILL 190 (1st Reprint): Provides for a study of issues regarding the
death penalty. (BDR S-764)

ASSEMBLYMAN BERNIE ANDERSON (Assembly District No. 31):

This bill is not meant to abolish the death penalty, prevent any prosecuting
agency from charging and seeking the death penalty, prevent any person from
being sentenced to death, alter the sentence of any person subject to the death
penalty, constitute a pardon for any death-row inmate, or affect the appeal,
habeas corpus, or judicial relief sought by any death row inmate. It proposes the
Audit Division of the Legislative Counsel Bureau conduct a study on the fiscal
costs of the death penalty and submit findings by January 31, 2011, prior to
the next regular Session of the Legislature.

Other states have conducted similar studies and found resources needed in an ordinary trial are needed in a death-penalty case but in larger quantities, which are listed in [\(Exhibit C\)](#). Costs of seeing a death-penalty case through are multiplied over a nondeath-penalty case without an equally significant corresponding benefit of deterrence. Also documented in [Exhibit C](#) is the recent legislative activity on this subject for three other states. The federal government has also reintroduced legislation seeking to abolish the death penalty at the federal level. We do not want to throw our limited amount of money at a failed death-penalty system.

MICHAEL PESSETTA:

I am an attorney here today on behalf of myself. I submitted a handout titled Financial Facts About the Death Penalty [\(Exhibit D\)](#), documenting significantly higher costs than other prosecutions. Other states studies have varying figures of the cost difference, but it is always considerable. A 1992 Texas study estimated it costs three times as much to execute a person than to maintain them for 40 years. Indiana estimates a 38 percent higher cost for executions than life without possibility of parole prosecutions. In Kansas, the estimate was \$500,000 more per case. We need to determine our State costs. I have provided a handout regarding several states' cost of the death penalty [\(Exhibit E\)](#) and another solely about the cost in the state of Maryland [\(Exhibit F\)](#).

Nevada has an expansive death-penalty process. Once a person is convicted of first-degree murder, they go through a penalty phase hearing where the jury must find circumstances aggravating first-degree murder, which are listed in the Nevada Revised Statute 200.033. We have an extensive list of 15 such circumstances. The felony murder aggravating circumstances apply to an enormous number of cases. The system of capital punishment attempts to find the worst offenders who would be eligible for capital punishment. Does it make sense to have an aggravating factor that captures the second highest proportion of homicide cases? Nevada has had 143 capital sentences since 1977 resulting in one involuntary execution. How much has this cost us?

Personally, I believe in abolishing capital punishment. Proponents are not large in numbers. Howard Skolnik, Director of the Department of Corrections, has testified this year that he would oppose any bill to abolish the death penalty on the grounds it should be retained for inmates who kill prison staff. That would make him an abolitionist to some degree since there are no inmates on death row who fit the profile. Proponents are not cohesive in their views of which

offenders should get the death penalty. This study would give the legislative body detailed costs of the wide array of aggravating factors and the many cases pending in litigation, which is critical to make a decision on capital punishment. Please support this study.

STEPHEN J. DAHL:

In disclosure, I served as a judge for 14.5 years and 6.5 years before that as Team Chief of the death penalty litigation unit of the Clark County Public Defender's Office. I am here today representing myself. My impetus is from my work on the Nevada Supreme Court Indigent Defense Commission, which I served on since its inception. Regardless of your feelings on the death penalty, Nevada cannot afford it. We have tried to discuss a balance between the cost of providing effective indigent defense and the cost to State and local governments. It is increasingly frustrating to me to hear the *Constitution of the United States of America* discussed in terms of an unfunded mandate. As money decreases and tension increases, the U.S. Constitution becomes the bad guy. This has led me to my appearance today.

I have an exhibit titled The Death Penalty in Nevada Since 1977 ([Exhibit G](#)), which states statistics of our death-penalty system. Since then there have been 143 defendants sentenced to death. On the handout, the number of inmates permanently removed from death row due to legal action should be 40, and the number of inmates currently not under a death sentence as ordered removed or awaiting a new hearing should be 9. Approximately 34 percent of all inmates sentenced to death since 1977 have had either their convictions or sentences reversed on appeal. The number of cases litigated to conclusion of the death penalty is 1 in 41. The vast majority of reverses have been based on penalty, not guilt. In fairness to the prosecution, they win most of their battles except the last one, which means they lose overall as the inmate is removed permanently from death row.

Another exhibit titled Iowa Legislative Fiscal Bureau ([Exhibit H](#)) summarizes their budget impact. On page 3 it states:

The fiscal note prepared for this Capital Murder Bill compared cost estimates for a death-penalty case with a Class A felony case in which the offender would receive life in prison without parole. The total cost for the capital case from arrest ... through execution was estimated to be \$2.4 million. The total cost for the Class A felony from arrest through natural death of the inmate in prison was

estimated to be \$1.5 million. The net effect is that the death-penalty case would cost an estimated \$900,000 more than a case resulting in life in prison. The prosecution and the defense costs for the trial and appeals are significantly greater for a capital case than for a Class A felony case and exceed the savings from the shortened term of incarceration for the executed offender.

If you take the Iowa study at \$900,000 more per case, reduce it by a third to \$600,000, multiply it by 41, the number of cases litigated to conclusion in Nevada, it is costing us \$24.6 million for one involuntary execution. Those numbers can be argued, but they give us a reference point. Is it worth this much money? Could the Legislature find other uses for that money, such as subsidizing our poorer schools? As a contrast, in one poorer school in North Las Vegas, we are spending \$107 per student for books, materials, supplies and activities this year.

The death penalty is more expensive because death is handled differently. When the State seeks that penalty, it sets into action requirements and reviews that do not exist in other cases. The cost of the defense is much higher. If the defendant is found guilty, the jury must determine a penalty of either death, life without possibility of parole or life with possibility of parole. The guilt phase requires preparation as does the penalty phase. Often, the penalty phase is more complex and expensive than the guilt phase. For prosecuting murder in Nevada, the act had to occur here. It has been my experience that most inmates accused of murder did not come from Nevada. The prosecution must prepare a biography of the person, beginning before birth. Did the mother have complications? Did she smoke or drink? Did something happen during the pregnancy to damage the defendant? The U.S. Supreme Court has set the standard for these cases. In a 2003 case, they reversed a 1989 death sentence because the defense counsel failed to conduct a proper investigation into the background of the defendant. Defenders must investigate every aspect of the inmates' lives that may explain aggravating circumstances by the prosecution. Discovery is extensive and does not stop at the Nevada borders but often includes other states and sometimes other countries. Unlike a criminal case with one defense attorney, death-penalty cases require a team approach with an additional investigator and mitigation specialist.

It is much more difficult, time-consuming and expensive to prepare for a death-penalty case. Years ago, there was a case in Las Vegas where two young

men from Utah committed a 7-Eleven Store murder. The case got much publicity. I represented the man who was not the shooter. The shooter was willing to take a life without possibility of parole sentence from the beginning, but the prosecutors got the death sentence. After many appeals, the federal court ordered the penalty phase, where the jury gave him a life sentence. All that money and time was wasted. Every case is different, but the cost study would help us look at how the system works and identify any benefits from the death penalty. I hope the bill passes.

SENATOR WIENER:

What would be the average number of appeals for a death-penalty case?

JUDGE DAHL:

It is difficult to compute that, as the process has many levels.

MR. PESCIETTA:

The minimum number of appeals would be five. Generally, there are more with the exception of those who volunteer for execution. Most are mandated by federal law.

SENATOR WIENER:

In contrast, is there no appeal process for a life sentence without possibility of parole?

MR. PESCIETTA:

Yes, there is a direct appeal available. A noncapital inmate can file a petition for a habeas corpus, which if denied, is then appealed to the Nevada Supreme Court. The difference is that representation by counsel is mandatory in the federal system and the first habeas corpus for capital cases. Often, cases of life without possibility of parole are processed without any counsel representation.

JUDGE DAHL:

As a comparison, I continue to get calls about death-penalty cases I worked on 20 years ago that are still in litigation.

RICHARD L. SIEGEL (President, American Civil Liberties Union of Nevada):

I am here as an appointee by Governor Gibbons on the Advisory Commission on the Administration of Justice. The Commission is nonpartisan and nonideological. My report from the Commission is we have reviewed the request

for the study and have heard from Richard Dieter, Executive Director of the Death Penalty Information Center in Washington, D.C. He reviewed for us the findings in other states. We voted 10 to 3 to support this study with support that includes Nevada Supreme Court Chief Justice James W. Hardesty. Most state administrators on the Commission support the study.

MAIZIE PUSICH (Chief Deputy Public Defender, Washoe County Public Defender's Office):

For the past 12 years, I have been the person who supervises the defense of Washoe County homicide cases. I represent the office and my employer in support of the bill. My testimony is for Washoe County only. None of our Washoe County death row inmates have retained counsel at this time. They did not have the funds. All counsel was paid for by the government. Some have court-appointed counsel, which is also paid for by the government. We do not have a study of what this has cost us in dollars, but we do have a study of the time used. When one of these cases arrives, we assign it to our most experience senior defenders, which is the proper thing to do when someone is fighting for their lives. On average, these cases take us 1,000 attorney hours to complete. For a period of six months, I am missing some of my most experienced staff who cannot devote any time to other cases. Our senior attorneys average between 240 and 300 cases per year. That takes all of their time and cuts it down proportionally to help those other cases. It is a real cost to us and our taxpayers. Defense costs in capital cases goes to the taxpayers. In the noncapital homicides, we usually spend between 500–750 hours, which is frequently half as many. Approximately 10 percent to 20 percent of noncapital homicides filed in Washoe County since 1977 have retained private counsel, but none of the capital cases have. There have been over 400 homicide charges brought since 1977, and over 50 of those have been defended by me. I am providing you information based upon my own personal experience. No capital sentencing can occur only by a judge. This has been deemed unconstitutional by the U.S. Supreme Court, but many of our noncapital sentences have been by judges only. These are far less expensive, use less time and fewer witnesses. A person charged with a capital offense cannot plead guilty and avoid a jury sentencing, but one charged with a noncapital homicide can. This study is needed to make informed decisions on the use of our scarce resources. Where other states have studies of the costs involved, we need our own figures. No agency should be getting a blank check from this Legislature.

BYLLIE D'AMATO ANDREWS (Cochair, Nevada Women's Lobby):

We are in support of this bill. This is the fiscally responsible thing to do. That money might be spent in a better way, such as funding education or social services.

DIANE R. CROW, J.D. (State Public Defender):

My office represents mostly rural counties. We do not have accurate numbers for these considerable costs. We recently heard a case in White Pine County where the District Attorney prosecuted a death-penalty case. Just the initial preparation for trial, although the case never got to trial, cost us about \$70,000 in experts. The case negotiated out to voluntary manslaughter. We spent \$70,000 for a voluntary manslaughter plea. That is absurd. The State picks up 25 percent of my budget. My office also pays post-conviction money to private attorneys appointed by the courts. I recently paid a bill for a private attorney representing a person on death row who has been there for at least 14 years, and the case is still pending. Please get some accurate numbers and base your decision on those figures.

REBECCA GASCA (American Civil Liberties Union of Nevada):

We support A.B. 190 and urge you to support it. This is a governmental transparency issue for the American Civil Liberties Union (ACLU). Our government spends millions of dollars yearly on various government programs. It is an extraordinary power granted to our government to prosecute people and sometimes take their lives. We think it is of utmost importance for the Legislature and the people to understand the resources that go into that program. This study will be the first of its kind in our State and should be considered when making policy decisions.

LARRY D. STRUVE (Religious Alliance in Nevada):

The Religious Alliance in Nevada (RAIN) Board has asked me to speak in support of this study. They favor the bill unanimously and feel it would complete the challenge we gave an interim subcommittee in 2002 to examine the death-penalty system in our State. Although the 2003 Legislature made helpful recommendations based on that study, fiscal impact was not reviewed. I provided a handout explaining reasons why we want a fiscal study ([Exhibit I](#)). There may be trade-offs occurring—without your knowledge—of additional costs to taxpayers to maintain the death-penalty system. We do not know if these funds are coming from education or the health care or children and families or programs protecting crime victims. Today, we are in worse financial

condition than in 2002. During that year, RAIN asked for a fiscal impact study because another interim committee study predicted a fiscal deficit of up to \$1 billion over eight years. That number pales to the figures you are facing this Session, which is closer to a \$3 billion shortfall. Our perspective is to examine each dollar spent. To not do so would be fiscally irresponsible during this budget crisis. Even the RAIN parishioners who support the death penalty are in support of this study.

JAN GILBERT (Northern Nevada Coordinator, Progressive Leadership Alliance of Nevada):

I agree with prior testimonies and support the bill.

SAM KING (President, League of Women Voters of Nevada):

We support this study. I have provided written testimony for our reasoning ([Exhibit J](#)).

MARK NICHOLS (Executive Director, National Association of Social Workers, Nevada Chapter):

I support the bill. Although my organization is opposed to the death penalty, this matter is an opportunity to set priorities in our criminal justice system. Before the recession, Nevada had inadequate resources to fund our State's needs. We must cut waste out of government and eliminate ineffective programs such as the death penalty. Despite the program, we have the third-highest violent crime rate and the seventh-highest murder rate in the country. All ten states with the highest murder rates have a death penalty in place, while six states with the lowest rates do not have one. There are better ways to spend our dollars. Our criminal justice system is one that seeks retribution and revenge with very little rehabilitation, treatment or prevention. A better balance would be to reallocate our death-penalty dollars for those ideals.

REVEREND JANE FORAKER-THOMPSON (Religious Alliance in Nevada; Social Justice and Prison Ministry, Episcopal Diocese of Nevada):

I have been a criminologist and have taught criminal justice. The prior testimonies are correct about the costs of appeals. I was a prison chaplain in Nevada. On occasion I attended an execution. Many people working overtime for these, which are held in the evening, include correctional officers and psychologists.

The RAIN represents several religious denominations in Nevada and over 500,000 constituents. We oppose the death penalty on biblical grounds. We are not supposed to kill. It makes no sense to kill in retribution. I have volunteered in the prison system since 1971. Prisoners dread a lifetime in prison without possibility of parole much more than they do the death penalty. Life without possibility of parole is the harsher punishment for many who cannot tolerate the idea of living in prison until they die.

SAM BATEMAN (Deputy District Attorney, Clark County, Nevada District Attorney's Association):

We are neutral to the study. The Legislative Counsel Bureau Audit Division should be the entity to provide that study. Other groups may have an agenda which might influence the results of the study. It is difficult to take into account what we believe are the deterrent effects associated with the reduced number of murders that occur due to the death penalty. Having the death penalty as a potential consequence of committing first-degree murder affects us down the line in negotiation cases. A study would be appropriate to determine how many cases do not go to trial due to the death-penalty process. These may be cost-savings procedures for us.

CHAIR WOODHOUSE:

We will close the hearing on A.B. 190 and open the hearing on A.B. 232.

ASSEMBLY BILL 232 (1st Reprint): Revises provisions governing the Legislative Commission and the Interim Finance Committee. (BDR 17-810)

ASSEMBLYWOMAN DEBBIE SMITH (Assembly District No. 30):

This bill provides the term of a member of the Interim Finance Committee or the Legislative Commission who does not run for reelection, or who is defeated at the general election, ends on the day following the general election. The vacancy is set to be filled by the Speaker of the Assembly or the majority leader. The vacancy on the Legislative Commission is filled applicable to the joint rules of the Assembly and Senate. There is clarification about the chairmanship, which is in line with the rest of the bill. After the past election during the Interim Finance Committee meeting, I realized we had people serving on Interim Finance who were not reelected. We were in a serious budget crisis mode and making major decisions. A mere two weeks later, we were called into special session due to the budget crisis and had newly elected people serving with people who had been defeated within a short time frame. I was asked

about other statutory committees, but they are not decision-making committees during the interim between November and the convening of regular session, whereas Interim Finance and the Legislative Commission are either making policy or financial decisions for the State.

SENATOR WIENER MOVED TO DO PASS A.B. 232.

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WOODHOUSE:

We will close the hearing on A.B. 232 and open the hearing on Assembly Joint Resolution (A.J.R.) 6.

ASSEMBLY JOINT RESOLUTION 6 (1st Reprint): Proposes to amend the Nevada Constitution to revise provisions concerning legislative sessions. (BDR C-67)

ASSEMBLYMAN TICK SEGERBLOM (Assembly District No. 9):

It is time to reconsider having annual sessions. The past two years have proven how little we know of what will happen after session. Having an interim session to address our finances would be beneficial. Because of term limits, we will miss the expertise we have enjoyed. Now we have term limits of six terms. This bill would give Legislators at least 12 opportunities to serve in session. It takes a few sessions to learn the ropes. My handout (Exhibit K) includes a map showing Nevada as one of three states that still has biennial sessions. The other two states, Montana and North Dakota, are not comparable to our State. For this bill to be enacted, it would have to pass again in two years and then be voted on by the people. It would not take effect until 2014. This is asking for permission for the people to vote on this. My witness, Professor Alan Rosenthal, an expert on legislatures, has submitted his written testimony in agreement with this bill (Exhibit L). This is not a conspiracy that southern Nevada will host the odd session there. We will continue the tradition of meeting in Carson City.

SENATOR WIENER:

Legislators' compensation is an issue. Would the timing be our normal 120-day session, with a 60-day session in the interim?

MR. SEGERBLOM:

Correct. We would not have to meet that entire time, but could chose to do so if needed. This would take away many interim committees, so we could save on those expenses.

SENATOR WIENER:

How would you set up interim committees, since some do specialty work on an as-needed basis and others are statutory committees that have ongoing meetings?

MR. SEGERBLOM:

I would hope we could fold most interim committees into the 60-day session. This bill does not specify what work is to be done during the time. Other committees could be more focused on monitoring government or on special assignments. It has built-in flexibility. I have noticed we do not have any time for oversight. We begin introducing bills on the first day of session and never have the time to look back and track progress of past bills or how other committees or agencies are progressing.

SENATOR RAGGIO:

If we put this idea onto a ballot, then let us correct the 60-day compensation issue. I am rankled that major media in this State railed against the provision about paying legislators for each day in session when it was on the ballot. The 60-day pay provision goes back to 1864 when we adopted the Nevada Constitution.

MR. SEGERBLOM:

I had that provision in the bill originally, but was urged to delete it due to the budget crisis.

SENATOR RAGGIO:

I am concerned about this being on a ballot. When we discussed it before, someone said, "I know how to defeat this." I asked how. He said: "I'll just tell everyone you can raise their taxes twice as often." Regardless of that sentiment, we should correct the pay.

MR. SEGERBLOM:

Our Legislators and staff are outstanding. We should stand up and tell the people this process is important and we deserve to get paid. It is our fault that we do not take a stand.

SENATOR RAGGIO:

With many Legislators soon to leave, I would like to see incentives in place to attract the best qualified people to step in and serve the Legislature. I know of no one who works for the Legislature just for the pay.

MR. SEGERBLOM:

I hope you will continue to say that once you are termed out. We need the public to support that concept.

SENATOR HARDY:

I do not want the bill to pass without recognizing my old friend Bob Price, who felt strongly about having an annual session.

SENATOR MATHEWS:

There are a number of things in the Nevada Constitution that baffle me. Our stamp allotment is \$60. They must have written that in the 1800s when we had 100 people in the entire State. I have about 92,000 constituents. I could barely mail the people on my block with that restriction. If we are going to address pay, let us also delete restrictions, such as stamps, that do not belong in the Constitution.

SENATOR RAGGIO:

You sure do not want to cut out our \$2 per diem benefit.

MR. SEGERBLOM:

I agree we need to revise the entire section of the Nevada Constitution. There is no way to represent an average of 140,000 people on 60-days pay.

SENATOR WIENER:

In your comparison to other states that have converted to annual sessions, have they analyzed the impact on their legislators? Many cannot serve more than four months every two years. Annual service may be a hardship. How would that affect their employment? This might impact the type of candidate who can serve.

MR. SEGERBLOM:

You have a point. However, I am not busy four months every other year as an Assemblyman, but around the clock.

SENATOR WIENER:

Yes, but this would be a dedicated time away from my normal work.

MR. SEGERBLOM:

As an attorney, I can get away for 60 days, but 4 months is difficult for me.

MS. KING:

We support yearly Legislative Sessions because legislation is a process. To meet annually and keep this process flowing makes sense. Special sessions may be more of a hardship for Legislators than planned annual sessions.

JUANITA CLARK (Charleston Neighborhood Preservation):

Why do you not compare our State to Texas, which also has biennial sessions?

MR. SEGERBLOM:

Texas is not comparable to us because of their unusual rule of having committees constantly in session. Although the full body only meets every other year, the committees go year-round. The Texas Legislature met 181 days last session and spent \$130 million. Theirs is a completely different scenario.

MS. CLARK:

There are committees that meet year-round here as well. We oppose this legislation. If our rules were reversed, you would be requesting a no vote. Some representatives have been here long enough to know any emergency is covered by our current every-other year sessions. Meeting every year automatically produces more legislation which would lead to an increase in departments and more complex government. Unless you want to do voluntary service, the monetary expense will also increase. Do our people want more governmental agencies or to pay more taxes? What a refreshing advantage for the legislative air to clear for 360 days, allowing your constituents to discern the effects that enacted bills have on their freedoms. We have 3 U.S. constitutionally required Congressional Districts while Texas has 32. Congressional Districts are based on population, with Texas having 24 million people. Nevada has a population of 2.5 million, or over 21 million fewer people, yet they meet every other year. We only need or want our Legislature in session every other year.

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SENATOR CEGAVSKE:

If this bill passes, would one year be slated for policy issues and the next for finance?

MR. SEGERBLOM:

We did not discuss that idea but wanted to keep the schedule flexible.

SENATOR CEGAVSKE:

Some other states schedule it that way. I would support having some structure in policy for the 60 days. We need to cut our bill draft requests (BDRs) in half. It seems we sometimes create bills just to create bills. We need to be thoughtful about the proposed bills. We could also look at combining like bills.

MR. SEGERBLOM:

Leadership could limit the number of BDRs we address. It is difficult to budget for the next two years when things change so rapidly.

LYNN CHAPMAN (Nevada Families):

We are against the bill. I do not wish to lobby every year. It is interesting to hear the comparisons of us and Texas. They have 24 million people and 32 Congressional Districts and meet every other year. Texas is near the bottom of the list when ranked per person on taxing and spending. Political scientists have predicted the longer legislatures are in session, the more laws are produced, the more expensive and complex the government becomes. States with full-time legislatures normally rank near the top of the list for per person taxing and spending.

JANINE HANSEN (Nevada Eagle Forum):

If we pass this bill, please do pay yourselves for every day in session. This contributes to the ability to have a citizen's Legislature. Some could not possibly be here without pay. However, we oppose the bill. Senator Raggio worked to get the 120-day session in place. In the past, I remember sessions going into July at 169 days. Limited time forces us to prioritize. This Session we have about 1,310 BDRs. Last Session we had 1,536 BDRs. Let us say the Senate creates 20 bills for each member and the Assembly 10 for each member. That is a total of 840 bills. Where are the other bills coming from besides Legislators? I believe many are agency bills. You could reduce the number of bills which would reduce the time spent on the bills. You could force agencies to go

through Legislators rather than submitting bills. It would reduce your days and your stress limit.

If we add a yearly session, it would reduce the numbers of people who could serve. If you run your own business, it is difficult to get away from the office that much. For me, it is a huge commitment of time. Adding another 60 days is huge.

With Senator Woodhouse's bill, the primary election date and filing date will change. The Legislature will fall, if you have a 60-day session on even numbered years, right in the middle of filing. I believe the filing time is March. You cannot raise money when you are in the Legislature. That might be an issue for some.

JOHN WAGNER (Independent American Party):

I echo Ms. Hansen's testimony. When I first voted, I voted for a full-time legislature in another state. Now they are in a jam because of that.

Also, why can our Legislators not have group health insurance if they get injured on the job? They should be paid for every day they are here.

GUY LOUIS ROCHA:

As a prior public administrator who managed a number of programs for almost 30 years, I support the bill. Planning a budget two to three years out is very difficult. I support annual sessions within the even year for budget only, to stay on top of dynamic changes. We are constantly changing and going before the Interim Finance Committee. Our world keeps changing, whether it is the price of a postage stamp or travel or whatever. I do not support more legislation to create more laws, but I am concerned about our budget process. A system that worked in 1864 is not working now. We are behind the curve all the time.

SENATOR CEGAVSKE:

Ms. Hansen brought up a good issue. Could the dates and times of the 60-day session be adjusted around an election? What is your historic concept of this?

MR. ROCHA:

You would need to exercise some discretion. We had one annual Session in 1960. Your predecessors passed a resolution in 1955 and again in 1957, approved it in 1958, held their first annual Session in 1960 and then citizens

voted in an initiative petition to remove the annual Session right after the first one ended. The problem was that it fell in an election year. There were issues of campaigning and posturing and other manipulation during that Session. Your timing question is important. Citizens in 1960 did not approve of Legislators using that Session as a campaign forum.

CHAIR WOODHOUSE:

We will close the hearing on A.J.R. 6 and open the hearing on A.J.R. 5. We will bring this bill back to a work session and invite Assemblyman Harry Mortenson to address the committee but will allow testimony on it now.

ASSEMBLY JOINT RESOLUTION 5: Proposes to amend the Nevada Constitution to authorize the Legislature to convene special sessions of the Legislature under certain circumstances. (BDR C-139)

MR. SEGERBLOM:

I am on the Assembly Elections, Procedures, Ethics, and Constitutional Amendments Committee and I voted for this bill. It allows the Legislature to call a special session for 20 days by two-thirds of each house for any major but rare issues like impeachment of the Governor. A similar bill was defeated earlier but with a narrow defeat. Assemblyman Mortenson felt this bill was worth reexamining at this time. No matter what the Governor does, we have the ability to do nothing unless he calls us back, and I do not believe he would call us back to do something that would negatively affect him.

SENATOR WIENER:

I attended a meeting of handpicked legislators to go to Washington, D.C., to develop a model plan for bioterrorism. Many of us went through our state constitutions and statutory schemes. This topic became an issue addressed by that group. The governor may not agree with legislators' rationale to meet since he sets the agenda for special sessions. This was an eye opener to me. Some of the stories shared included states frozen in place that did not have the capacity to call a special session without the governor's approval.

MR. SEGERBLOM:

To pass, it would require a vote of the people, so the provision would not be available until 2013.

SENATOR CEGAVSKE:

According to this bill, a Legislator would have to get signatures from two-thirds of each house. What is the time line of that process? Would it not be easier to get the Governor to convene a special session? And if we could not find a solution in 20 days, would we have to start the entire process again? Has there been a time when a request for a special session has not been fulfilled?

MR. SEGERBLOM:

If the Governor would agree, it would be great. This is designed for the rare occasion when the Governor will not cooperate for whatever reason.

SENATOR WIENER:

We recall the 2003 Session. We had frequent recesses where the clock was stopped for parties to negotiate. Can the Governor mandate the subject matter if he agrees to a special session?

MS. KING:

We want a citizen's Legislature that will speak for us. I favor this because I want a voice. If you pass A.J.R. 5, then you could meet yearly for these types of situations and would not have to worry about getting a special session in action. The Legislature needs to be able to respond to the people in the timeliest manner. We support this bill.

SENATOR CEGAVSKE:

If we approve annual sessions, do you still support being able to call special sessions?

MS. KING:

No. We need the most expedient process. The voters should be able to choose. I would think A.J.R. 5 would be the most effective.

MS. CHAPMAN:

I support a bill that would allow the Legislature to police itself. It would be beneficial to have this in place over having annual sessions.

MS. HANSEN:

This is a good safeguard with the two-thirds approval requirement and a limited amount of days. Who knows who our Governor will be in the future? Years ago I worked with Senator Rawson on the issues of the Model State Emergency

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Health Powers Act. It basically allowed the Governor to become a dictator during an emergency, where he could confiscate food, fuel and property without legislative oversight.

CHAIR WOODHOUSE:

The meeting of the Senate Committee on Legislative Operations and Elections will adjourn at 3:42 p.m.

RESPECTFULLY SUBMITTED:

Makita Schichtel,
Committee Secretary

APPROVED BY:

Senator Joyce Woodhouse, Chair

DATE: _____