

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

**Seventy-fifth Session
April 9, 2009**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Joyce Woodhouse at 1:57 p.m. on Thursday, April 9, 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 John J. Lee
Senator William J. Raggio
Senator Barbara K. Cegavske
Senator Warren B. Hardy II

GUEST LEGISLATORS PRESENT:

Senator Shirley A. Breeden, Clark County Senatorial District No. 5
Senator Terry Care, Clark County Senatorial District No. 7
Senator Dean A. Rhoads, Rural Nevada Senatorial District
Senator Maurice E. Washington, Washoe County Senatorial District No. 2
Assemblyman Marcus Conklin, Assembly District No. 37

STAFF MEMBERS PRESENT:

Brenda Erdoes, Legislative Counsel
Eileen O'Grady, Chief Deputy Legislative Counsel
Pepper Sturm, Committee Policy Analyst
Makita Schichtel, Committee Secretary

OTHERS PRESENT:

Leslie A. Johnstone, Executive Officer, Public Employees' Benefits Program

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Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association

Robert Stanley Hadfield, Nevada Association of Cities; Nevada Association of School Administrators; Nevada League of Cities; Washoe and Clark County School Districts; Nevada Sheriffs' and Chiefs' Association; Las Vegas Metropolitan Police Department; Washoe County Sheriff's Office; Nevada Association of School Boards

Danny L. Thompson, Executive Secretary-Treasurer, Nevada State American Federation of Labor and Congress of Industrial Organizations

Lonnie Shields, Nevada Association of School Administrators; Clark County Association of School Administrators and Professional Employees

Matthew M. Griffin, Deputy Secretary for Elections, Office of the Secretary of State

Pilar Weiss, Culinary Workers Union Local 226

Janine Hansen, Nevada Eagle Forum

CHAIR WOODHOUSE:

We will open the work session on Senate Bill 103.

SENATE BILL 103: Revises provisions relating to the Public Employees' Benefits Program. (BDR 23-422)

PEPPER STURM (Committee Policy Analyst):

The work session document ([Exhibit C](#), original is on file in the Research Library) itemizes each bill on the agenda and any submitted amendments. Senate Bill (S.B.) 103 has proposed Amendment 4134 brought forward by Leslie Johnstone, and Senator McGinness has proposed a separate amendment on page 28 of [Exhibit C](#).

CHAIR WOODHOUSE:

For the record, Ms. Johnstone, can you confirm that this amendment stipulates retirees would not be dropped out of the Program under section 4 of the bill, as we discussed?

LESLIE A. JOHNSTONE (Executive Officer, Public Employees' Benefits Program):

That is correct. The Public Employees' Benefits Program (PEBP) asked we leave retirees in based upon prior testimony.

SENATOR RAGGIO:

Does the amendment by Senator McGinness pose any concern to you?

MS. JOHNSTONE:

This is a matter of practicality. There was no notice requirement with the eligibility cutoff in S.B. No. 544 of the 74th Session, so I am fairly secure in saying no one was personally notified of that deadline from their last employer. The employers in conjunction with PEBP offered informational meetings, but I do not believe anyone was personally notified of the eligibility cutoff. If this amendment passes, it would effectively open the door to all eligibility that S.B. No. 544 of the 74th Session termed out.

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 103 WITH PROPOSED AMENDMENT 4134.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

CHAIR WOODHOUSE:

We will open the work session on S.B. 154. Besides the amendments proposed in [Exhibit C](#), we have an amendment from Senator Breeden ([Exhibit D](#)) and another from the Washoe County School District ([Exhibit E](#)).

SENATE BILL 154: Revises provisions governing negotiations by certain employers with recognized employee organizations. (BDR 23-779)

PEPPER STURM:

This bill expands the scope of mandatory bargaining to include transfers, reassignments and any matter significantly related to subjects listed within the scope of mandatory bargaining. There is an amendment from the Nevada State Education Association and one from the Nevada Sheriffs' and Chiefs' Association in the work session document, [Exhibit C](#).

CHAIR WOODHOUSE:

Is there anyone here from the Nevada State Education Association to explain your amendment? Hearing none, we will move on to the Nevada Sheriffs' and Chiefs' Association.

FRANK ADAMS (Executive Director, Nevada Sheriffs' and Chiefs' Association):

This amendment would exempt law enforcement and its employees from transfers and reassignments becoming a part of collective bargaining due to public safety. In an emergency, an agency needs to be able to react quickly.

ROBERT STANLEY HADFIELD (Nevada Association of Cities; Nevada Association of School Administrators; Nevada League of Cities; Washoe and Clark County School Districts; Nevada Sheriffs' and Chiefs' Association; Las Vegas Metropolitan Police Department; Washoe County Sheriff's Office; Nevada Association of School Boards):

Our group amendment dated March 31 in [Exhibit E](#) is three-fold. First, it removes the expansion of the transfer provision of collective bargaining. Second, it expands the provision in collective bargaining to include methods of payment and receipt of any salary or wage. Third, it removes the expansion of bargaining to matters that are significantly related. We met with the Senators and were told there was a concern over a payment issue. We propose to amend section 2, line 9 to add the words "and the methods for payment and receipt of any salary or wage." On the second page of the amendment on lines 37 and 38, we wish to leave in the original language which specifies that transfer and reassignment become collective bargaining for teachers exclusively and not for other local government employee groups. Lastly, we want to delete the newly proposed language on page 2 with the strike-through editing, lines 40 through 45 and 1 through 5, which adds language requiring us to mandatorily bargain significantly related topics. Collectively, we agree this dramatically changes current law and would lead to more debates, which was not our intent. We met with Senator Breeden and the proponents and did not meet a uniform agreement. However, we do agree current law allows remedies for existing problems. We strongly advocate collective bargaining between the over 100 local government units and the various employee representatives. These debates should not be settled under the Nevada Legislature. During this time of economic hardships, the "significantly related" language in section 1 subsection 3 would limit our ability to thrive.

SENATOR SHIRLEY A. BREEDEN (Clark County Senatorial District No. 5):

I submit the proposed Amendment 4192 in [Exhibit D](#) to this bill after a collective meeting for a resolution. From that debate, I submit one change on page 2, lines 22 through 23. The counties ask that I delete all employees and add licensed and unlicensed employees, which would encompass teachers, support staff and

administrators. Any other changes in the amendment are submitted by Danny Thompson.

DANNY L. THOMPSON (Executive Secretary-Treasurer, Nevada State American Federation of Labor and Congress of Industrial Organizations):

Our concern is the "significantly related" language, as Mr. Hadfield testified. One local union tried to negotiate a significantly related issue as part of mandatory bargaining and has spent \$250,000 in court fees. This is one example where millions of dollars are wasted by local government arguing for issues that could be negotiated. I appreciate the earlier testimony of the employer trying to pay employees with a debit card, but mandatory bargaining is just one fix. Not all of these issues need to go to district court. If we are spending millions of dollars, then they are also spending millions of dollars to fight us. We generally win these types of lawsuits. A simple fix, this amendment, would allow significantly related issues to be negotiated rather than heard before a district court.

SENATOR RAGGIO:

This amendment as written in the language under section 1, subsection 4, paragraph (a) deletes the word "transfer." Therefore, it still takes away the right of local government employers to transfer an employee.

MR. THOMPSON:

This was not our intent. We should leave the word "transfer" in the language.

EILEEN O'GRADY (Chief Deputy Legislative Counsel):

I agree striking the word "transfer" was an oversight. It should remain in the bill.

CHAIR WOODHOUSE:

If this amendment is passed, then we ask you to fix the language in lines 39 through 42 on page 2.

SENATOR RAGGIO:

Why are you including unlicensed school district employees?

MR. THOMPSON:

The same justification applies for teachers as for unlicensed school district employees. An employee can be transferred to a school 30 miles away. Given

the vast areas of the Clark and Washoe County School Districts, a transfer can be significant and should be bargained.

SENATOR RAGGIO:

Mr. Hadfield, does the school district agree to add unlicensed school district employees to the transfer and reassignment policy?

MR. HADFIELD:

No. The school districts only want licensed, certified personnel included in transfer bargaining. They do not want to open it to a broader base of employees.

SENATOR BREEDEN:

We are also asking to include administrators, who asked the language be expanded to include all employee groups.

SENATOR RAGGIO:

Why? Transferring teachers is an entirely different topic than administrator transfers. Why would you think the school district should not have flexibility of transfers at the administration level? It seems administrator transfers should be based on the interest of the school district and not subject to bargaining.

LONNIE SHIELDS (Nevada Association of School Administrators; Clark County Association of School Administrators and Professional Employees):

It is not uncommon for a Clark County school administrator to be reassigned to a new school with no notice nor any prior conversation between them and their immediate supervisor. It does not matter if they are willing to transfer or if it is for the betterment of the district. However, I did not encounter the same problem when I worked in the Washoe County School District. They allow for conversation and agreement. Collective bargaining would keep the process consistent.

SENATOR RAGGIO:

If an administrative need arises which requires immediate attention, would collective bargaining obstruct that process? How do you negotiate when no one wants to serve in that position? Then what does the school district do?

MR. SHIELDS:

You could collectively bargain into your contract any provisions to handle emergency situations. I was a teacher leader when the original collective-bargaining bill was passed. At that time, we discussed including administrators. The question was not if they were being served, but if teachers did not want administrators under the law because it is a stumbling block. Since then, administrators have entered into collective bargaining and formed their own bargaining groups. They should have the same rights as other licensed personnel in the collective-bargaining process.

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 154 WITH THE MARCH 31 **EXHIBIT E** AMENDMENT.

SENATOR MATHEWS:

What about the amendment from the Nevada Sheriff's and Chiefs' Association which exempted law enforcement agencies from collective bargaining for transfers or reassignments?

SENATOR RAGGIO:

The only change would be chapter 288 of the *Nevada Revised Statutes* (NRS) to add the language "and the methods for payment and receipt of salary and wage." It would continue to apply bargaining to teachers only, so the Nevada Sheriffs' and Chiefs' Association would be excluded as they have asked.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS LEE, WIENER, AND WOODHOUSE
VOTED NO.)

SENATOR MATHEWS:

To clarify, we have passed the bill to include this amendment from the Washoe County School District, correct?

MS. O'GRADY:
Correct.

CHAIR WOODHOUSE:

We will open the work session on S.B. 181.

SENATE BILL 181: Makes various changes regarding governmental administration. (BDR 24-666)

MR. STURM:

Originally, this bill eliminated early voting, changed the date of the primary election and adjusted fees charged by the Department of Motor Vehicles (DMV) to fund free voter-identification cards. The bill has been amended to only include the voter-identification issue. The DMV would be required to provide a photo-identification card free of charge to any person upon request. Existing DMV fees would be increased to pay for the costs to make the bill budget neutral. The included fiscal note has not been revised to accommodate changes to the bill.

SENATOR RAGGIO:

This bill is essentially the same as S.B. 315 of which I am a cosponsor. They both deal with voter photo identification. In the interest of time, we can discuss both bills simultaneously. The only difference is who would provide the photo identification.

SENATE BILL 315: Revises certain provisions concerning voter identification. (BDR 24-925)

CHAIR WOODHOUSE:

Senate Bill 181 requires the DMV to pay for and process the voter identification card, whereas S.B. 315 requires the county clerks to do so.

SENATOR MAURICE E. WASHINGTON (Washoe County Senatorial District No. 2):

Correct. I suggest we amend S.B. 181 into S.B. 315 to allow two mechanisms of obtaining voter identification. Both would meet court requirements. My bill follows the Indiana model and provides a government-issued identification. A simple kiosk machine set up at the DMV could do the job. We did not raise fees for senior citizens or those under the age of 18.

SENATOR RAGGIO:

First, we need to know if the Committee supports the concept of voter photo identification. We have heard testimony, mainly from county officials, indicating

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little to no costs for county election offices to provide the identification. Does the Committee favor a law which has been adopted in many states since the U.S. Supreme Court decision? It works well for them. If you agree, then do we have the county officers or the DMV provide the identification?

SENATOR WASHINGTON:
The intent is met with either bill.

SENATOR CEGAVSKE:
Which option would be more flexible? Would it be the county? I agree we could do either or both options.

SENATOR LEE:
Why do we need voter identification?

SENATOR RAGGIO:
The primary purpose is to preserve the integrity of the election process. We do not know if there have been problems of voter fraud, since they may go unreported. This would ensure the voter is the actual person who says they are. Everyone should have photo identification, whether they are voting or not.

SENATOR WASHINGTON:
The voting process is sacred. We never want to give the impression of fraudulent voting. We need something in place to determine if there is voter fraud. Poll workers are there to stop any fraudulent voting. This would add one more safeguard to maintain integrity in the voting process.

CHAIR WOODHOUSE:
What is the pleasure of the Committee on S.B. 181 and on S.B. 315?

SENATOR RAGGIO MOVED THAT THE COMMITTEE SUPPORT EITHER BILL REQUIRING PHOTO IDENTIFICATION FOR VOTING.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS LEE, MATHEWS, WIENER, AND WOODHOUSE VOTED NO.)

CHAIR WOODHOUSE:

We will close the work session on those two bills and open the work session on S.B. 210.

SENATE BILL 210: Makes various changes to the provisions governing the disposition and reporting of campaign contributions. (BDR 24-582)

MR. STURM:

As introduced, S.B. 210 requires persons who dispose of unspent campaign contributions to submit a separate report that includes proof that the designated recipients actually received the funds. The bill also requires that persons who become candidates but do not appear on an election ballot within four years of the qualifying event must dispose of their unspent campaign contributions as prescribed by law. The act authorizes another acceptable disposition to include donations to the State Distributive School Account or to a school district fund. In addition, a limit of \$10,000 is placed upon the amount of unspent campaign contributions that can be donated to groups or persons actively supporting or opposing ballot questions. Finally, the bill requires candidates for public office to report the ending balance remaining in their campaign accounts at the end of the calendar year.

Senator Lee has provided proposed Amendment 4094 in **Exhibit C** which changes "must" to "may" to clarify proof of receipt of unspent campaign funds as required in section 1, subsection 2 does not have to include all of the items specified. This change was also requested by the Office of the Secretary of the State. A second change on page 5, lines 41 through 43 of the original bill limits the amount of unspent campaign contributions donated to groups or persons actively supporting or opposing ballot questions.

SENATOR LEE:

This bill is not interpreted by everyone the same. The earlier proponents envisioned a different outcome. When a person in office who term limits out wants to run for office, then according to this bill, they could keep any leftover campaign funds. If a candidate termed out of the Senate, wanted to run for the Assembly and had \$100,000 in their account, the law explicitly states they should return the money within two months. But if they could raise an additional \$100, they become a candidate by definition and could keep the money on hold for four years. This bill says they must dispose of their money within four years of the time they should have run for office. At that time, they

can donate the money to the school district or the State Distributive School Account. Senator Raggio sees a strict interpretation of the law. Although I agree with him, I also know that others are not following his interpretation. If you have been term-limited out, defeated or retire, you must dispose of the money and explain where it went. Also, if a candidate says they donated money to an organization, then they must get a receipt from that organization for record-keeping purposes. We must be more transparent with our leftover funds. The Office of the Secretary of the State will explain the amendment to the bill.

MATTHEW M. GRIFFIN (Deputy Secretary for Elections, Office of the Secretary of State):

The proposed Amendment 4094 is for candidates who fall under chapter 294A of NRS. They can keep the money for their next election but are required to file a notice of intent with our Office at the same time they file their annual disclosures. If the election is in November, then they should file this notice on January 15. The notice would document their intent to keep the money for an undisclosed office for a period not greater than four years. This allows us to know who has money, who is intending to keep it and how much they intend to keep. Then we can track the four-year timeline. If their balance is not zero after the four years, then we can initiate the appropriate proceedings to ensure the money is dispersed according to statute.

SENATOR HARDY:

Current law reads if you term out, decide not to run or are defeated, you have to dispose of the money within 60 days.

MR. GRIFFIN:

If you are defeated, then you would have until the fifteenth day of the second month to dispose of the money. If you are termed out or decide not to seek another office and then raise money for another term, under NRS 294A.005 set forth in subsection 4, you have become qualified as a candidate and are allowed to use that money at your next election even if you have not declared an office. The only provision missing is for those who do not seek office. They have no deadline to dispose of the money.

SENATOR HARDY:

We should correct that oversight. Say a candidate decides to run for reelection, collects \$100 to become a candidate, continues to collect money for six months, and then decides not to run for office. Nothing in the law requires

them to get rid of the money. The intent of the bill is to put a system in place to disperse the money.

MR. GRIFFIN:

Yes, that is the exact intent for this bill.

SENATOR RAGGIO:

I was here when we passed the original law in chapter 294A of NRS which is in section 3 of this bill. It clearly stated any candidate who was not elected must dispose of the money. Our intent was only for elected candidates to continue to use money during their term of office or during their next election. If you did not fit into that category, then you did not have the right to keep the money. You are saying today that this has been interpreted to mean that if you are not elected or termed out, then you can become a "candidate" by receiving \$100 and therefore apply a retroactive effect upon all the money you collected up until the time of the election? Who came up with that interpretation?

MR. GRIFFIN:

It has been the interpretation of every Secretary of State, including former Secretary of State Dean Heller.

SENATOR RAGGIO:

Is there a written policy that addresses this?

MR. GRIFFIN:

There is no written policy, but I have discussed this with the Attorney General's Office. One change is that the definition of a candidate has been amended. In the past, you were a candidate once you filed for a declaration of candidacy. Now, you become a candidate once you raise an additional \$100.

SENATOR RAGGIO:

Right, you become a candidate at that point, but that should have no impact on the money you had already collected.

MR. GRIFFIN:

Nothing in statute requires you, once you are in office, to dispose of the funds accumulated during your campaign. By statute, the funds you raise on the campaign trail can be used by you as a candidate and as an officeholder for all duties incumbent on that office.

SENATOR RAGGIO:

Yes, but if you are not elected, or if you should decide not to run for office and had collected money, this statute is clear that you must disperse within the two-month time frame. Do you have any documentation in your Office that explains this interpretation? Is there a policy or written advice for candidates?

MR. GRIFFIN:

I do not believe there is any reference in writing.

SENATOR RAGGIO:

Why do you say it has been interpreted over the years this way?

MR. GRIFFIN:

This has been the legal interpretation since I was in this office for Secretary of State Ross Miller. For someone to not be elected, it is presumed they must have appeared on some ballot. If you do not appear on a ballot, then chapter 160 of NRS would apply.

SENATOR RAGGIO:

If a candidate does not file for an office, would they not fall under the category as not elected? I am astonished this interpretation has been allowed to exist over this period of time. I would like to have some indication as to how it has been promulgated.

MR. GRIFFIN:

I will research where this precedent came from. Some Secretary of State opinions go back to the 1990s.

SENATOR RAGGIO:

I appreciate Senator Lee bringing forth the interpretation of the law as it is currently being followed, which is faulty and never the intent of the Legislature. If we are to address this issue, we should require in all circumstances the same rules for candidates not elected to dispose of their leftover funds within the two-month period, not a four-year period. I spoke with Ms. Erdoes who said she understood the law as I did but indicated it had somehow been interpreted by the Secretary of State otherwise. I do not intend to speak for her, but this is my experience.

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CHAIR WOODHOUSE:

I suggest Mr. Griffin find some clarity and meet with Senator Lee.

CHAIR WOODHOUSE:

We will set aside this bill and move on to S.B. 212.

SENATE BILL 212: Revises provisions governing initiative petitions.
(BDR 24-649)

SENATOR DEAN A. RHOADS (Rural Nevada Senatorial District):

In the past, we had a rule a petitioner must go to 13 out of 17 counties to obtain signatures. Several years ago, an Idaho federal judge ruled that unconstitutional and said you could gather signatures at one place. At that point, you could get 10 percent of signees from Reno or Las Vegas and none from the rural counties. In 2007, the Nevada Legislature unanimously—in both Houses—asked a measure requiring 10 percent of voter signatures from all counties be gathered. Last fall, a federal judge in Las Vegas ruled that down, again saying it is unconstitutional. I amended S.B. 212 to require 5 percent of registered voter signatures from all Assembly Districts and also 5 percent of registered voters Statewide for a total of 10 percent (Amendment 4201 in Exhibit C). This bill also calls for a hearing by the Secretary of State. I submit a legal opinion by Jones Vargas ([Exhibit F](#)) that states Congressional Districts would be unconstitutional as well and not give the rural counties much say in the issues.

SENATOR RAGGIO:

I disclose that I own shares for the law firm that presented the opinion, although I was not aware of this opinion until now.

SENATOR CEGAVSKE:

It seems every option we agree to has been ruled unconstitutional. Has our legislative staff done any studies on the 42 Legislative Districts or 3 Congressional Districts?

MR. STURM:

There are two other amendments. Mr. Griffin proposed in section 13 to replace the word “county” with the words “Assembly District.” This clarifies provisions of the bill as a whole, so petitions must bear the name of the Assembly District and only registered voters of that district may sign the petition. Also,

Janine Hansen proposed amending the bill to use Congressional District residency versus Assembly District residency. The intent is to simplify the verification process and reduce the number of petitions a circulator would need to possess when gathering signatures.

PILAR WEISS (Culinary Workers Union Local 226):

We propose an amendment but do not have the language drafted yet. I agree with Senator Cegavske about the ongoing problem of finding the solution to petition-gathering, only to have the language thrown out in the courts, making us revisit this issue repeatedly. We support Congressional Districts. We believe it would be supported by the courts but understand the desire to divide petition gathering into smaller geographical divisions. The Assembly Districts would be cumbersome from a circulation standpoint and possibly open to legal challenge. We submit using Senate Districts as an alternative. This still ensures real representation across the State but is less cumbersome and allows for fewer challenges regarding the ability of small groups to circulate petitions.

CHAIR WOODHOUSE:

Your conceptual amendment is to change it to Senate Districts?

Ms. WEISS:

Yes, we propose changing Assembly Districts to Senate Districts.

SENATOR WIENER:

I recall we discussed that option.

SENATOR CEGAVSKE:

Correct. The problem is the dual districts preclude us from that option.

SENATOR WIENER:

If we do nothing, what will happen?

SENATOR RHOADS:

If we do not pass something, it will revert to 10 percent of registered voters from any one area, and the rest of the State would be left out of the process.

SENATOR LEE:

Congressional Districts would be easier to manage than Assembly Districts, which might preclude citizens from being able to afford petitioning. I am afraid

Assembly Districts would kill the initiative-petition process. Senator Rhoads, is your goal to do away with the initiative process or to keep it alive? I would go with Senate Districts.

SENATOR RHOADS:

The legal opinion we received today said that Congressional Districts would probably be challenged in court and not allow the rural counties a say in the process. By going with Assembly Districts, rural counties would be involved. We have nothing but the requirement that 10 percent of voter signatures must be gathered, whether in one grocery store or at a Wal-Mart location.

BRENDA ERDOES (Legislative Counsel):

We have been looking at these options. From our research of the court decisions, I am not sure any options will be upheld. Other states have different ways to obtain signatures. Some use Senator Rhoads' method, others use systems like the 13 Counties Rule. There is no consistency between the court circuits.

SENATOR RAGGIO:

In looking at the Jones Vargas opinion, I would prefer Congressional Districts. They reference a 2008 federal court opinion in *Marijuana Policy Project v. Miller*, 578 F.Supp.2d 1290 (2008), and also *A.C.L.U. v. Lomax*, 471 F.3d 1010 (2006). In both opinions, the courts suggested Legislative Districts for regulation of signature requirements that would alleviate the equal-protection concerns. The Nevada federal courts have indicated this is the best option and only way to protect citizens equally.

CHAIR WOODHOUSE:

A similar bill in the Assembly was just voted on.

ASSEMBLYMAN MARCUS CONKLIN (Assembly District No. 37):

Our bill, Assembly Joint Resolution (A.J.R.) 16, is philosophically different from S.B. 212. It is a Constitutional Amendment that employs Congressional Districts and requires a six-year time frame. The Wal-Mart store would suffice if you could collect all required signatures there. We need widespread support to get an item on a ballot.

Assembly Joint Resolution (A.J.R.) 16: Proposes to amend the Nevada Constitution to revise the provisions governing a petition for a state initiative or referendum. (BDR C-1240)

SENATOR CEGAVSKE:

Mr. Conklin said A.J.R. 16 would take six years, and we need something in place now. Ms. Erdoes said in the interim, the 42 Legislative Districts would be in place, and if the resolution passes, it would supersede that decision.

CHAIR WOODHOUSE:

Part of the quandary is if we want to go with Assembly or Congressional Districts for the six years until this constitutional amendment passes.

SENATOR CEGAVSKE:

How long would it take for the 42 Districts to go into place?

SENATOR RHOADS:

That would happen immediately. My amendment involves 5 percent of Assembly Districts for petition signatures and allows for a hearing.

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 212 WITH PROPOSED AMENDMENT 4201 IN **EXHIBIT C**.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

CHAIR WOODHOUSE:

We will return to S.B. 210.

SENATOR LEE:

Ms. Erdoes, we are trying to interpret law on disbursement of funds by candidates who are defeated, retire or decide not to run for office again. If they want to run again and raise an additional \$100, they are keeping the money for the next election. How is it that some are not returning the money in the two-month period?

MS. ERDOES:

The language in subsection 3 of NRS 294A.160 addresses a person who is not elected. As much as I would like to say it is clear and the interpretation is consistent, we are finding that is not the case. There are two readings. One is if a person is not elected for any reason, whether on a ballot or not. The other is everyone who was not elected to office must dispose of campaign contributions within a two-month time frame. This has been interpreted and practiced to mean only if you are on the ballot. If you are not on a ballot and not elected and then you filed either notice to be a candidate for another office or you accepted a \$100 campaign contribution and became a candidate, you could keep the money and later run for office. It is not clear how long that money has been kept or what is happening with it. This is your chance to clarify ambiguous language. This is further complicated by the Secretary of State's Office having no record of how the money is kept. I believe they operate on the basis of complaints. Nothing is done other than complaints are filed. This proposal from the Office of the Secretary of State would track the money.

SENATOR LEE:

My intent is to pass this bill as a minimum amount of framework to work toward clarification. If we can find something that gives the Office of the Secretary of State a strict interpretation of the law, then I would remove that segment once they started enforcement. We need something in place to identify and track the money.

SENATOR MATHEWS:

I agree with Senator Lee that we need something on the books. This bill would allow for four years, which is a long time to not account for funds. Most will not remember where they spent funds after four years. I need to report yearly to remember. That is a long time to not be accountable. If you are not elected, are not running for office and have a \$100 contribution, you become a candidate with no declared office. We need to specify the definition of a candidate.

SENATOR LEE:

You could consider running for mayor or for State Assembly and not have to identify which position in order to keep your campaign funds.

SENATOR MATHEWS:

Do we have an exploratory committee to account for campaign money?

MR. GRIFFIN:

California has an exploratory committee, we do not. A candidate is defined under NRS 294A.005 as one:

Who files a declaration of candidacy; who files an acceptance of candidacy; whose name appears on an official ballot at any election; or who has received contributions in excess of \$100, regardless of whether: (a) The person has filed a declaration of candidacy or an acceptance of candidacy; or (b) The name of the person appears on an official ballot at any election.

SENATOR MATHEWS:

We need to get rid of the fourth option of the \$100 contribution. The other options require accountability. It would be fraudulent to keep campaign funds if you have not filed and are not running for office. What would you be a candidate for? You would be a candidate for money.

SENATOR RAGGIO:

I support Senator Lee's intent and find the added option of contributing leftover funds to a school fund a commendable one.

I agree with Senator Mathew's concern. The original intent was that a candidate who did not win had to disperse all contributions after the election. If elected, he could keep money during his term and use it for that office or any public office he might run for in the future. Otherwise, let me make this clear, if he were not elected, did not run for office or was termed out, he had the two-month period to distribute funds. The intent was clear that anyone who had collected money in the past and were still holding those funds would have a period of two months to make a distribution of those funds. That is the goal. As Senator Mathews said, if we endorse the concept that someone can suddenly become "a candidate" by telling a neighbor they are thinking of running for dog catcher and they receive \$100, then they can keep their campaign-contribution money. We are talking campaign contributions received up until the date of the election. We have a failure to interpret the original intent.

SENATOR LEE:

I have no problem with that, but I do have a problem with consequences. We might need a window of time to enact that intent. At this time we have a four-year window to allow candidates who are interpreting law however they thought was correct to disperse their money. If I term out, run for Governor

with my \$100,000 campaign funds—and have been working toward running for that office as I understood the law—and then find out I cannot use those funds, that would negatively impact me and all candidates who want to run for an office during the next four years. We do not want to exclude them from running for another office with the money they already have based on their concept of doing what is right. After four years, we could clear out all people who would fit this situation, and then put this law into effect.

SENATOR WIENER:

I appreciate the need for continuity for funding a campaign, but we do not need four years to educate candidates on the law.

SENATOR MATHEWS:

Exactly. I am glad Senator Lee identified this loophole and brought it forward. There is a line we need to take but maybe not in this Session. I agree four years is a long time to hold money and whittle away at it. Most will not remember how they spent it after four years with no obligation to tell anyone and without being accustomed to quarterly reporting. They will forget.

SENATOR WIENER:

I value Senator Raggio's institutional memory and sharing of original intent. When people contribute to our campaigns, their intent is to assist us to become elected officials for whatever office. It is a specific investment on their part. We become entities not as individuals but as political body to a person or group that believes in us and is willing to invest a sum of money to help us progress in the election process. To spend the money for any purpose other than that while we decide what we want to do for four years is a breach of trust to those investors. We should carry forward the intent of our investors. We lose that focus when we drag campaign funds over a four-year period.

I, too, appreciate the opportunity to contribute to education funds, which is in line with public service and what we do as elected officials.

SENATOR LEE:

It sounds as if no one has a problem with the requirement of proof of receipt for any disbursement of funds or with the option of donating money to a State Distributive School Account. The section about qualifying as a candidate is the point of contention, which I could remove. A strict interpretation of the

definition of a candidate by the Office of the Secretary of State would solve that problem.

CHAIR WOODHOUSE:

That would take care of the Secretary of State's amendment changing "must" to "may."

SENATOR CEGAVSKE:

My final report accounts for where the money has been spent. Why do I need a receipt? Who would I give the receipt to?

SENATOR LEE:

For those who retire or are term-limited out, this would provide a system for tracking the money. I thought it was important, but we can take it out.

MR. GRIFFIN:

We are talking about entities involved in politics, not someone who has filed a commercial recording or someone on file as a legal entity under Nevada law. Receipt of funds from a political organization serves as proof that they do exist as an entity you can disperse your money to, like a political action committee.

SENATOR RAGGIO:

To follow up on Senator Cegavske's question, the bill states when you dispose of unspent campaign contributions, you are required to file a report with the office where you filed your candidacy, which in my case would be the county election office. The report must include proof, so would I attach cancelled checks or receipts to that report file?

MR. GRIFFIN:

Yes. The basic concept is to provide acknowledgment from the recipient.

SENATOR CEGAVSKE:

I already do this each time I write a check or fill out a report. Why do we need this additional language?

SENATOR RAGGIO:

Filling out a report is different than disposing of money at the end of one's candidacy. This is a final disbursement of the funds.

SENATOR LEE:

In the proposed Amendment 4094, section 2 stays intact. Section 3 gives a candidate the option to donate their money to a school in their area.

CHAIR WOODHOUSE:

Is that option in addition to the other entities we can donate to?

SENATOR LEE:

Correct. Section 3, subsection 5 of the bill is the segment that needs a strict interpretation to return to legislative intent.

SENATOR RAGGIO:

I agree, and we need to clarify section 3, subsection 3 so it does not apply solely to those not elected but also covers those who are term-limited or who have not appeared on a ballot after accepting campaign contributions. Ms. Erdoes, I defer to you to clarify that language so no one uses current law with this loose interpretation.

MR. GRIFFIN:

From the Secretary of State's point of view, I agree with Senator Raggio. We need a time frame tied into section 3, subsection 3. You can be a candidate forever without filing for office. If subsection 3 was amended to say someone who is not elected within a period of so many years, whether or not their name appears on an official ballot, must dispose of campaign funds, it would cover all bases.

SENATOR RAGGIO:

We cannot allow a person to remain a perpetual candidate just because they say they are.

SENATOR LEE:

I agree.

SENATOR MATHEWS:

Page 4, line 42 of proposed Amendment 4094 says every candidate who is "not elected to that office and received contributions that were not spent." To me, that means you had to be on a ballot. A person cannot be elected if they never appear on a ballot. You cannot be a candidate if you are never on a ballot. Would it suffice if we leave out the person who was never on a ballot?

SENATOR RAGGIO:

That is what I meant. We need to cover the person who announced themselves as a candidate and then did not run and those term-limited to cover all situations.

MR. GRIFFIN:

When we changed the definition of a candidate last Session, it changed the interpretation of this process. Candidates could be raising money but never declare it because they have not filed for office. Now a person is a candidate when they raise \$100, which means they have to file a Campaign Contributions and Expenses Report.

SENATOR RAGGIO:

We need to change the language on line 45 to include a candidate who is defeated or fails to run for office or is term-limited. The language should cover anyone who is no longer an incumbent.

MS. ERDOES:

We can do that. Once this becomes effective, do we need a transitory provision to treat everyone already in the system? Do you have a time period specified for a transitory provision?

SENATOR RAGGIO:

We could stipulate the two-month period after this law becomes effective.

SENATOR WIENER:

What about a person who cannot file within a two-month period because that filing period for a particular office is not yet open? How do we handle that situation?

MS. ERDOES:

If you amend the statute in this way, a person not on a ballot would need to dispose of campaign funds within two months. If they file for an office after that, they would have to raise campaign funds from scratch.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 210 WITH PROPOSED AMENDMENT 4049 AND TO INCLUDE
PROVISIONS FOR EVERY CONTINGENCY OF LEAVING OFFICE.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR HARDY WAS ABSENT FOR THE VOTE.)

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CHAIR WOODHOUSE:

We will open the work session on S.B. 281.

SENATE BILL 281: Revises provisions governing the reporting of campaign contributions and expenditures. (BDR 24-800)

MR. STURM:

Senate Bill 281 repeals statutory requirements for periodic reports that disclose campaign contributions and the disposition of unspent contributions and expenditures. The bill summary is found in the work session document, **Exhibit C**. There is no formal amendment at the time of this hearing, but there was a general discussion of raising the minimum reportable amount from the existing \$100 to \$1,000. We were just given a handout from the Office of the Secretary of State with a proposed amendment (**Exhibit G**).

MR. GRIFFIN:

This amendment was brought forward by Senator Randolph Townsend. Originally, the bill had a fiscal note attached from our Office, and he asked us to determine how to take it out. This amendment adds an initial \$100 charge to establish an account so candidates can file online.

SENATOR MATHEWS:

Mr. Griffin, does your Office support this amendment?

MR. GRIFFIN:

We were originally neutral on the bill, but Senator Townsend asked for an amendment to eradicate the fiscal note.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 281 TO INCLUDE THE AMENDMENT FROM THE OFFICE OF THE SECRETARY OF STATE AND TO RAISE THE MINIMUM REPORTABLE AMOUNT TO \$5,000.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS CEGAVSKE, HARDY, MATHEWS,
AND RAGGIO VOTED NO.)

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CHAIR WOODHOUSE:
We will open the work session on S.B. 102.

SENATE BILL 102: Revises provisions relating to state officers and employees who are not subject to certain requirements of the federal Fair Labor Standards Act. (BDR 23-310)

MR. STURM:
This bill repeals portions of the *Nevada Revised Statutes* concerning the method of determining which State employees are entitled to overtime compensation. Instead, the measure requires the Department of Personnel to apply the standards of the federal Fair Labor Standards Act to determine whether a position in the classified or unclassified service is entitled to overtime compensation. One amendment was submitted by the sponsor, Teresa Thienhaus, Director, Department of Personnel, which requests implementation of provisions of the bill to begin with the first State employee pay period following October 1. This would synchronize the start date with the beginning of a State employee pay period.

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 102 TO INCLUDE MS. THIENHAUS'S AMENDMENT.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS LEE, MATHEWS, WIENER AND
WOODHOUSE VOTED NO.)

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CHAIR WOODHOUSE:
We will open the work session on S.B. 196.

SENATE BILL 196: Revises the provision that restricts petitions for initiative or referendum to a single subject. (BDR 24-83)

MR. STURM:

This bill revises the statutory provisions and broadens the parameters for the single-subject rule and those matters “properly”—versus “necessarily”—connected. It provides that each part of a petition must be related and germane to the general subject matter of the petition, rather than to each other. Lastly, it provides that if a petition lists a new source of funding in one part and specifies expenditures for that revenue in another part, it meets the single-subject rule as long as each of the areas is functionally related and germane to the general subject matter. An amendment has been submitted by the American Civil Liberties Union of Nevada (ACLU). The amendment is provided in [Exhibit C](#), page 47.

SENATOR TERRY CARE (Clark County Senatorial District No. 7):

Not all states have the initiative petition process, but Nevada has had it in place since 1912. Some Legislators feel it limits the broad discretion they need to deliberate and enact legislation. The initiative process might be perceived as narrowing the powers of the Legislature. Two sessions ago we enacted the single-subject rule, which I voted for. The legislative intent was to disallow a ballot question that encompassed too many subjects. I testified before this Committee about what has happened since then when proponents of measures have attempted to gather signatures to get a measure on a ballot. Time and time again, courts say this is a violation of the single-subject rule. This measure would state specifically any discussion as to dedication of funds—while it might seem separate, as long as it is related to the subject of the ballot question—should be read so the entire matter is considered a single subject. The ACLU amendment captures my intent. Courts err on the side of voter participation. If the language is ambiguous, the measure stays on the ballot. Courts have taken a literal application of the single-subject rule. This has killed the initiative process and runs afoul of the spirit of our Constitution and our original intent.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 196 WITH THE ACLU AMENDMENT.

THE MOTION FAILED FOR LACK OF A SECOND.

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JANINE HANSEN (Nevada Eagle Forum):

By passing S.B. 212 requiring we must use an electronic device in order to petition and stipulating the gathering of petitions from every Assembly District, you are denying our right to petition. You might as well take that right out of the *Constitution of the State of Nevada*. This Committee was swayed by a private law firm's legal opinion without soliciting others, and you are not seeing the whole picture.

SENATOR HARDY:

This Committee did not make a decision based solely on an independent law firm's opinion. It is not our intent to kill the initiative petition but to ensure all voters have an equal opportunity to have their voice heard. Democracy is not easy. Making it easier to pass an initiative process is not my main objective but to ensure it represents all people.

CHAIR WOODHOUSE:

The meeting adjourns at 4:24 p.m.

RESPECTFULLY SUBMITTED:

Makita Schichtel,
Committee Secretary

APPROVED BY:

Senator Joyce Woodhouse, Chair

DATE: _____