

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-Eighth Session
May 5, 2015**

The Committee on Legislative Operations and Elections was called to order by Chair Lynn D. Stewart at 4:06 p.m. on Tuesday, May 5, 2015, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Lynn D. Stewart, Chair
Assemblywoman Shelly M. Shelton, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Michele Fiore
Assemblyman John Moore
Assemblyman Harvey J. Munford
Assemblyman James Ohrenschall
Assemblywoman Victoria Seaman
Assemblyman Tyrone Thompson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

Senator Patricia Farley, Senate District No. 8
Senator James A. Settelmeyer, Senate District No. 17
Senator Greg Brower, Senate District No. 15
Assemblyman Pat Hickey, Assembly District No. 25
Senator Joseph (Joe) P. Hardy, Senate District No. 12

STAFF MEMBERS PRESENT:

Carol M. Stonefield, Committee Policy Analyst
Kevin Powers, Committee Counsel
Patricia Hartman, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Frank Schnorbus, Nevada Legislative Liaison, Convention of States
Randi Thompson, representing Convention of States
Jim Sallee, Private Citizen, Las Vegas, Nevada
Lynn Chapman, representing Nevada Families for Freedom
Janine Hansen, representing Nevada Eagle Forum
Shawn M. Meehan, representing Guard the Constitution Project
John Wagner, State Chairman, Independent American Party
Juanita Clark, representing Charleston Neighborhood Preservation, and
Private Citizen, Las Vegas, Nevada
Brian M. Patchett, President/CEO, Easter Seals Nevada
Sam Lieberman, Government and Community Relations Director, Easter
Seals Nevada

Chair Stewart:

[Roll was taken.] We will start with Senate Bill 403 (1st Reprint).

**Senate Bill 403 (1st Reprint): Revises provisions relating to elections.
(BDR 24 799)**

Senator Patricia Farley, Senate District No. 8:

It is an honor to be here today to introduce Senate Bill 403 (1st Reprint), which addresses the growing number of candidate residency issues we have seen in the past few years. During the last several election cycles, there were instances where candidates have been found to have violated the residency

requirements set forth in Nevada law. We know that residency is often a question of intent for which the courts have had difficulty determining violations under *Nevada Revised Statutes* (NRS) 293.1755 and NRS 293C.200. These provisions state that the candidate must reside in his or her district, city, township, or other area for at least 30 days prior to the closing of the candidate filing period. Violations often result in the candidate being declared ineligible to hold office if found early enough, and the candidate can be removed from the ballot.

Legislative candidates who we know are ineligible to hold office due to a court ruling are still being issued certificates of election. To address this important question and to strengthen the law, I decided to request S.B. 403 (R1). So what does S.B. 403 (R1) do? In short, this bill adds another component to whatever remedy or penalty is provided by law for violating the residency requirement.

This bill provides that if a district court finds that a candidate who campaigned for any office has violated the residency requirement, he or she must reimburse each person who made a campaign contribution to the candidate whether or not the candidate used the contribution for the campaign or for illegal expenses. The bill sets forth a threshold of at least \$100 and other monetary contributions that cumulatively exceed \$100 from the same person. If the candidate receives any contribution from a person of less than \$100, the candidate must donate the equivalent amount to any tax-exempt nonprofit entity.

Senate Bill 403 (1st Reprint) provides that if the contributor to be reimbursed cannot be located, the candidate shall donate the equivalent amount to a nonprofit tax-exempt entity. With all of these reimbursements, the Senate amended the bill to give the district court discretion to require the candidate to reimburse all or a portion of the contributions to the contributor or to a nonprofit entity as may be the case.

The bill also states such reimbursements must occur no later than the 15th day of the second month after the district court's ruling, and if an appeal is made, then no later than the 15th day after the appeal is resolved. To provide flexibility, S.B. 403 (R1) allows the candidate who is unable to make all the reimbursements to file for an extension with the Secretary of State. The Secretary of State has an option of extending the period for making all of the reimbursements or to approve an installment plan proposed by the candidate. If an installment plan is approved, the Secretary of State shall create a record available for public view that sets forth all of the terms of the plan as described by the circumstances required for the installment plan.

The bill also lays out other parameters for reimbursements relating to campaign finance reporting. First, in addition to any other contributions and expense reporting required in NRS Chapter 294A, the candidate must submit to the Secretary of State a report listing all of his or her reimbursements and donations. The Secretary of State shall set, by regulation, the due dates of such reports. In addition, the candidate shall not use as reimbursements any contributions received as a candidate in another election. All reimbursements must be made prior to disposing of other unrelated campaign funds pursuant to the disposition of unspent contribution requirements set forth in Chapter 294A of NRS.

Senate Bill 403 (R1) also requires that disclaimers describing these reimbursement provisions be included in the Secretary of State's website on the declaration of candidacy form as well as any guidebooks, handbooks, or other informational materials provided to candidates.

During the discussion in the Senate on this bill, questions came up regarding the seating of a legislator who we know, due to the court order, is not an eligible candidate. Therefore, S.B. 403 (R1) provides that the legislative candidate is considered an ineligible candidate if he or she is found by a court not to have met the qualifications required for the office and is disqualified from entering upon the duties of such an office. Such an ineligible candidate may not be seated as a legislator or subscribe to the official oath of office and must not be issued a certificate of election regardless of the number of votes cast.

Finally, I note that the bill is effective upon passage and approval to allow the Secretary of State time to adopt the necessary regulations and on January 16, 2016 for all other purposes.

In summary, S.B. 403 (R1) finally puts more teeth into the law regarding candidate residency regulations. Moreover, it gives relief to those who put their faith and money into supporting these candidates by requiring the contributions be returned to the donors if a residency violation occurs. Thank you for your consideration and support of S.B. 403 (R1). I believe there are others here who will testify in support of this important measure.

Assemblywoman Seaman:

Is there a form the candidate has to fill out to show where the money went or how it will be audited by the Secretary of State?

Senator Farley:

Upon passage of the bill, the Secretary of State has to issue all the regulations and establish the times when every report is published for public review. Those details need to be worked out in the Office of the Secretary of State, but the intent is that there are reports filed and they are open to the public.

Kevin Powers, Committee Counsel:

This is a follow-up on Assemblywoman Seaman's question. Under current law, every candidate has to file a Contributions and Expenses Report (C&E). So, the Secretary of State would use that report to determine who made the contribution and its amount. That is what the reimbursement would be based upon. That is the reason for the difference between the \$100 level because for contributions less than \$100, candidates do not have to disclose who made the contribution. When the contributions exceed \$100 or cumulatively exceed \$100, in either of those circumstances, the C&E Report has the name and address information for the contributor; therefore, the Secretary of State can track that information and that is the reason for the distinction in the legislation.

Assemblyman Thompson:

Senator Farley, if a supporter gave a candidate \$100 and the candidate was in violation, is there a reason why the \$100 could not just be returned by the candidate? Because most likely, if a person is asking for contributions, they are not wealthy enough to fund their own campaign. Also, are there other alternatives for violators?

Senator Farley:

If someone gave the candidate \$100, that candidate would be responsible for giving the \$100 back to the donor. If the donor said no, that candidate would have to make a charitable contribution with the money. That candidate could not keep it. In answer to your second question, the basis of the remedy is that as candidates, I believe some of them are knowingly defrauding people out of money when they take campaign contributions. This bill states that the district court, when passing sentencing, depending on the person's means and background, can decide if there should be restitution made to those donors. That candidate should have to pay back some or all of the money.

Assemblyman Thompson:

It has to be out of the candidate's personal bank account and not from the candidate's campaign account, correct?

Senator Farley:

Yes. Once the candidate gives back the money left in his or her account, restitution has to be made just like for any other crime. I believe it is the same

as stealing money when people know they are committing fraud. In a sense, it means this is restitution. Candidates should not be allowed to keep this money to use for another campaign, but they should be required to return it.

Assemblyman Thompson:

I understand what you are saying, but I still need clarification. If you gave me \$100 for my campaign fund, can I reimburse it from my campaign fund or do I have to take it out of my personal account?

Senator Farley:

The money could come from both accounts.

Assemblyman Moore:

If a candidate wants to reimburse \$100 but the offer is declined, can the candidate use it for someone else's campaign?

Senator Farley:

No, the money has to be given to a nonprofit organization.

Assemblyman Moore:

Who would make the stipulation of the nonprofit organization?

Senator Farley:

The organization would have to be tax exempt. Normally, if it is a nonprofit organization, it would qualify.

Assemblyman Moore:

The candidate can choose the nonprofit organization of his choice, correct? Will records be kept of the transaction?:

Senator Farley:

Yes.

Assemblyman Trowbridge:

If a fraudulent candidate raises \$5,000 and spends \$4,000 on campaign materials and is deemed ineligible, the candidate is required to return the entire \$5,000, so \$1,000 can come out of the balance and the remaining \$4,000 has to be reimbursed out of his pocket?

Senator Farley:

Yes. A district judge, not the Secretary of State, is going to make the determination of the punitive damages. Some of our campaigns were well over six figures so that could be devastating to a candidate. A district judge would determine the amount of the retribution that would come out of the candidate's personal account.

Chair Stewart:

Is anyone in support of the bill? [There was no one.] Is anyone in opposition to the bill? [There was no one.] Is anyone neutral to the bill? [There was no one.]

Senator Farley:

We had a lot of input during the Senate hearing on the bill. Hopefully it is a good, clean bill and your Committee can take it under advisement.

Chair Stewart:

The hearing is closed on S.B. 403 (R1) and we will open the hearing on Senate Bill 274 (1st Reprint).

[Senate Bill 274 \(1st Reprint\)](#): Enacts provisions governing the State's delegates to any federal constitutional conventions. (BDR 24-600)

Senator James A. Settelmeyer, Senate District No. 17:

In front of you today is a concept about enacting provisions governing the state's delegates to any federal constitutional convention. I am not seeking to have a constitutional convention in any way, shape, or form. There are different ways a constitutional convention can be called. The U.S. Congress, by a two-thirds decision, can dictate that we need to have a constitutional amendment or two-thirds of states' legislatures can also call for a convention. We already have two aspects within Nevada's law that state we have agreed to the concept of having a constitutional convention for discussion of amendments pertaining to term limits and the balanced budget. In that respect, we have already said we would participate. Even if the state chose not to participate, meaning as a Legislature we did not state we wanted to have an amendment, if three-quarters of the states so desire, they will have a convention, and Nevada will have the opportunity to send delegates.

It is my opinion that those individuals who go to said conventions should not be able to go rogue. There should be some type of penalty for those individuals who decide to go off course from what we, at the Legislature, have sent them back to discuss or vote on. Simply put, that is what this bill is about—laying out those parameters just in case we are not in session because we do not meet

every year. We do not necessarily want to put this off on the Legislative Commission, so this would establish the framework on that issue.

Chair Stewart:

Is anyone in support of this bill?

Frank Schnorbus, Nevada Legislative Liaison, Convention of States:

Our state director sent a letter which I helped compose ([Exhibit C](#)), and I would appreciate it being put on the Nevada Electronic Legislative Information System (NELIS).

Nevada has eight active Article V [of the *U.S. Constitution*] applications in Congress now including apportionment, busing, and the right to life. The point is that one nationwide organization has compiled over 700 Congressional Record entries asking for a convention of states. Many people feel it is inevitable that there will come a time when a convention will be called. Nevada may choose to participate in it or not, but there is a good chance it will happen, possibly in the near future. I think this is a good bill because it will limit our delegates and also set forth rules on what they would be allowed to do at the convention. For that reason, we support S.B. 274 (R1).

Randi Thompson, representing Convention of States:

I ditto what Frank just said. Our *Nevada Constitution* calls for a convention. This bill puts into a framework what could inevitably be happening. We support this bill because it is good to be ahead of the game.

Assemblyman Elliot T. Anderson:

Can our law limiting delegates apply outside of our state's borders? I am not sure that we have jurisdiction.

Kevin Powers, Committee Counsel:

Provisions of the bill would only apply to Nevada's delegation, so they would be responsible for complying with any restrictions imposed by the Legislature on the scope of the subject matter and any other rules adopted by the Legislature imposed on the delegates. Those delegates would remain responsible under Nevada law because they are appointed by the state. So this bill does not go beyond Nevada's delegates.

Assemblyman Elliot T. Anderson:

That is not what I meant, Mr. Powers. If the delegates were travelling outside of the physical borders of Nevada, would the law follow them across the border and have legal effect on them if they were outside of the state?

Kevin Powers:

What you are referring to is a personal jurisdiction question. The state of domicile retains personal jurisdiction over any individual who is a resident of the state. Those Nevada delegates would be residents of the state even though they are representing Nevada at a constitutional convention, and any action that the state took would be directed toward those delegates who would be subject to Nevada's jurisdiction.

Chair Stewart:

Are there others in support of the bill? [There was no one.] Is anyone in opposition to the bill?

Jim Sallee, Private Citizen, Las Vegas, Nevada:

I am in opposition to S.B. 274 (R1). Article V of the *U.S. Constitution* does not give states the power to select or limit delegates. Congress assumes the six powers under Article V and one of them is determining the number and selection process for its delegates. This is quoted from page 4 of the Congressional Research Service's Report, "The Article V Convention to Propose Constitutional Amendments: Contemporary Issues for Congress," dated April 11, 2014. I think this is conflicting, and I do not think Congress is going to allow states to do whatever they want to do.

Lynn Chapman, representing Nevada Families for Freedom:

We are opposed to this bill. We want to remind everyone about the Continental Congress. They intended to limit the original Constitutional Convention delegates just by amending the *Articles of Confederation*. They ignored the mandate and the delegates ended up giving us a new *Constitution* replacing the *Articles of Confederation*. They also changed the ratification process. We have to be careful that our delegates do not follow suit.

Janine Hansen, representing Nevada Eagle Forum:

My responsibility, as National Constitutional Issues Chairman, is to monitor other states and work with them to defeat a constitutional convention.

Four years ago when I was asked to be part of a conference call by the Balanced Budget Amendment Task Force, which is seeking an Article V convention, they were looking for a way to pass Article V conventions across the United States because they have been repeatedly rebuffed and were not making any progress. As a part of those conversations, they came up with the idea that the way they could pass conventions was to get delegate limitation legislation just like this. Through the auspices of the American Legislative Exchange Council (ALEC) and the Balanced Budget Amendment Task Force, they came up with the idea of limiting delegate legislation. In many states, they

were able to stop a call for a constitutional convention until this delegate limitation went through. My point is that if you favor delegate limitation, then you favor a constitutional convention because on page 2 of the bill, Florida, Georgia, Indiana, South Dakota, Tennessee, and Utah are listed. Previous to the delegate limitation acts either being passed in advance or as companions to a constitutional convention, all of these states were able to stop their bills for a constitutional convention. So their strategy of passing the delegate limitation legislation worked very effectively in getting this passed.

We know that 27 states have passed an Article V convention for a balanced budget amendment. This bill provides the way, the means, and the comfort zone in order to be able to get that passed, which is the purpose of the bill. Article V says that Congress shall call a convention. Can a state limit its delegates? In Article 1, Section 8, Clause 18 of the *U.S. Constitution*, it outlines the responsibilities of Congress. It states that Congress has the power "To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or any Department or Officer thereof."

This is telling us that Congress has the power to call the convention and thereby set the rules. In fact, it was Senator Sam Irvin and Senator Warren Hatch who put forth legislation in Congress which was passed by the U.S. Senate and outlined a plan for constitutional conventions including how to select the delegates and the number of delegates. This was done by apportionment. In other words, whatever a state has in the Electoral College, that is what the state would get. California would have what they have represented in the U.S. Senate and Congress, and Nevada would have the same.

This has been an effective means of getting constitutional conventions passed in many states. South Dakota, Florida, Utah, Tennessee, Georgia, and Indiana were successful in defeating a constitutional convention until they were able to pass legislation that is a clone of this legislation. The danger of this bill is that it is the precursor to passing a constitutional convention.

Shawn M. Meehan, representing Guard the Constitution Project:

I am correcting prior testimony. Senator Settelmeyer said that two-thirds of the states can call for a convention. Article V says that when states petition for a convention, Congress calls the convention. He also later stated that three-fourths of the states are needed for calling a convention, whereas three-fourths is the threshold for ratification of amendments that may come out of the convention.

The lobbyist for the Convention of States referenced our *Nevada Constitution* and a term limits amendment provision that allegedly requires the legislators to take these kinds of actions. I am frustrated that this is still out there because if you consult the Nevada Attorney General Opinion No. 2000-11 ([Exhibit D](#)), which I verified is still in effect, it specifically states why that part of our state's *Constitution* is unconstitutional and cannot direct actions to be taken. As our legislators, you are sovereign.

The Congressional Research Service (CRS) report ([Exhibit E](#)) documents 41 specific bills that have been offered wherein Congress has asserted its right to define a convention when called.

I have a copy of the Federal Convention Act of 1973 ([Exhibit F](#)) that the Senate passed. It did not become law because the threat of a convention at the time pulled back, but they clearly laid out what contradicts this bill, which is that it will be an Electoral College model of delegation apportionment, not one state, one vote. Why is that important? This bill, if passed, basically says that if it is not one state, one vote, Nevada cannot go. I think this is dangerous.

If we are unfortunate enough where the cabal that is trying to get an Article V convention called is successful, I would like someone from Nevada to be there to keep an eye on things and report back to the state what is going on.

After a convention is called to order, there are state supreme court precedents in *Corpus Juris Secundum* that state things in this bill cannot happen. The convention does not have to communicate with the state or honor requests to replace delegates, or honor requests that votes are not counted if the delegates depart from the message they have been given. This law is wholly unenforceable, and I believe it sends a dangerous message and precedent to the people and future legislators of Nevada that it is safe to call for an Article V convention. I respectfully ask that you vote no on [S.B. 274 \(R1\)](#).

John Wagner, State Chairman, Independent American Party:

I cannot add anything to what has been said, but knowing Congress over the years, I cannot believe that they would give up their control of the constitutional convention.

Chair Stewart:

Is anyone neutral to this bill? [There was no one.]

Senator Settelmeyer:

To me, I believe it is best to try to limit the actions of individuals. Some of them are saying that this legislation will have no effect, but what if it would?

That is what I am after—the ability to try to limit individuals from going rogue. As far as the legal parameters people keep trying to discuss, our legal counsel has indicated to me and to you, that we do have this ability. That is what this bill is about.

Chair Stewart:

The hearing is closed on S.B. 274 (R1). We will now open the hearing on Senate Bill 499 (1st Reprint).

Senate Bill 499 (1st Reprint): Revises certain deadlines relating to elections. (BDR 24-1149)

Senator James A. Settelmeyer, Senate District No. 17:

Senate Bill 499 (1st Reprint) became a "Legematic" as the saying goes. It has been radically changed from its original inception, to say the least. Some individuals have different concepts that they want to bring forward. Those concepts did not work; however, we are trying to address another issue that is out there.

There are three primary aspects of the bill. First, it would move the deadline to file petitions to early June for minor party candidates. Part of the problem is an issue of ballot access. Now the way we have it structured is that the candidates need to have their petitions done so early it prevents them from having ballot access. By moving the completion date for their petition back to June, it gives them more time. At the same time, they still have to file when everyone else does. The reason is because we are adding what some people refer to as a sore-loser law to this legislation. We want to be able to prohibit candidates who lose a major primary from appearing in the general election as a minor or independent party candidate. That is why their names are needed at the time of filing so they do not become subject to the sore-loser law. Because they may not certify, we do not know who is going to be in the general election. Therefore, the other aspect of the law would be to modify the rule so that as soon as two people of the same party file, it would constitute a primary election no matter what, without any ruling or deference and regardless if anyone else files. So, if two people file, there is a primary.

Assemblyman Thompson:

For clarification, when two people from the same party file, is it automatically a primary? Do you want to say at the time of the closing of filing?

Senator Settlemeyer:

Yes. At the end of filing, if there are two individuals from a major party, it would trigger a primary regardless of how many other people filed for that particular office.

Assemblyman Thompson:

There was a similar situation in southern Nevada where the candidates were from the same party but it did not trigger a primary.

Senator Settlemeyer:

That is correct. This bill changes that part of the *Nevada Revised Statutes*. If two people from the same party filed, that would trigger a primary regardless if anyone else files. Previously under Nevada law, it required a third person to file for that office either as an independent, nonpartisan, or Green Party candidate. This bill would not allow that because by helping the minor party candidates have more time to file their petitions, which they need, it would be problematic to try to file them back to when the primary is held and when they need to have their petitions done. In many states, there are legal rulings saying that is not proper and that minor party candidates are being denied access. Therefore, we need to give them more time to have their signature gathering process done for their particular party. However, we need to know if they are going to be in the race in the beginning so we know whether or not we have a general election. This bill helps solve that issue because if two people from the same party file, there will be a primary regardless if a third person files. We also need that name for what is called the sore-loser law to prohibit a candidate who loses a major party race from magically switching to another party and appearing in the general election. I think most of us would find that problematic to have our primary contender reappear on the general election under a different party.

Assemblyman Ohrenschall:

Under S.B. 499 (R1), if the only people filing for an Assembly seat were two members of the Republican Party, and no one else filed from any other party, would there be a Republican primary or closed primary like we have in Nevada? Then, the winner of that primary would be the de facto winner and there would not be a vote in the general election, correct? They could almost be issued a certificate of election at the primary election, correct?

Senator Settlemeyer:

I believe that they still have to receive one vote, just as I did, in the general election.

Assemblyman Ohrenschall:

As it is now, the two candidates from the same party would go straight to the general election and voters of all parties would decide which member of the Republican party they liked better, but in this bill, it would just be the members of the Republican party who vote in the primary, correct?

Senator Settlemeyer:

We need to move the deadline to file these petitions because there have been court actions which have indicated that we need to think about moving the petition deadline to early June. By doing this, it would create a situation with current filing where we would not know if someone is a candidate or not because he has not completed his petition process, but we would already have had our primary. It creates problems and that is the reasoning for creating the rule that if two people of the same party file, it creates a primary. By having the name in the beginning for the sore-loser law, the three work together. If I am not explaining this clearly right now, I can follow up with you offline, and we can discuss court cases that have indicated we need to think about moving the filing of the petition to early June for the minor party candidates.

Assemblyman Ohrenschall:

This is a question for our legal counsel concerning the new proposed language in section 10, on page 11, lines 19 through 21 of the bill. The existing language says that any challenges filed with the Secretary of State regarding the qualifications, not of the candidate but of the minor political party, must be decided in the First Judicial District Court in Carson City. But the new proposed language seems to contemplate deciding if that language is in a different judicial district. I am wondering what kinds of challenges would find a home in one of the other districts. Would they be challenges that would be filed with the county registrar or county clerk? I thought all challenges had to be filed in the First Judicial District Court.

Kevin Powers, Committee Counsel:

You need to read the last two sentences of that section together. The challenge pursuant to this section must be filed with the First Judicial District Court if the petition was filed with the Secretary of State. Some candidates who run for statewide office have to file the petition with the Secretary of State, or other offices that comprise more than one county will have to file with the Secretary of State. But if the candidate's office is only for a district located in one county, his or her filing officer will be that county clerk.

Assemblyman Elliot T. Anderson:

Senator Settlemeyer, in section 17 of the bill, is the lined out information accounted for in the new language?

Senator Settlemeyer:

Unfortunately, it was "Legematic" so there was a lot of information that was deleted. Maybe legal counsel can answer your question. I can look at it later and follow up with you. I am not trying to do anything other than the three things in the parameters I have set forth.

Kevin Powers:

Mr. Anderson, I believe that when the bill was drafted, the goal was to carry out the intent expressed by Senator Settlemeyer, and it is the belief that the drafter would have deleted only language necessary to carry out that intent. If there is a concern, we can look at it closer, but we believe that we captured the intent. Essentially, the existing language that is struck out in section 17, subsections 2, 3, and 4, deals with the various scenarios Senator Settlemeyer spoke of, such as depending on how many candidates filed for a particular office and whether one candidate was with a major or a minor political party. The new language removes all of those existing contingencies and simply provides that if a major political party has two or more candidates for a particular office, there has to be a primary election and the person who receives the highest number of votes becomes that party's candidate for the general election. This is regardless of whether or not minor political parties or independent candidates file for office.

Janine Hansen, representing Nevada Eagle Forum:

This bill started out as an open primary bill, which we were very concerned about, and Senator Settlemeyer worked closely with us in order to find an alternative. There have been two lawsuits by minor parties regarding the date when candidates are required to turn in their petitions because federal courts have determined that they need to have enough time, which usually goes into June. Nevada has changed that timetable. They changed those timetables to March and so in this bill, Senator Settlemeyer is trying to remedy that filing issue. He is attempting to allow candidates to file their petitions in June so they have enough time like the Green Party. This bill requires the parties to file their candidates at the same time. All other parties have to file in March, so they cannot wait until later to file their candidates. That is the reason why the major parties need to have a primary and determine a winner because now if there are two Republican candidates running for office and an Independent American Party candidate files, it forces a primary election. But because the date of filing is being changed for a minor party to June, which is not on the ballot yet, it changes the situation. In order to remedy that, the major parties will have a primary so that someone cannot come back later and act as a sore loser in that particular case. We think this is a very good response and helps the Office of the Secretary of State as well.

Assemblyman Thompson:

Ms. Hansen, in the event there is a primary election with the two major parties and an independent or minor party, can there be more than one candidate in each of those parties? What if there is more than one candidate from the same minor party? Would they also have to run for a primary like the major parties?

Janine Hansen:

The law prohibits minor parties from having a primary. Minor parties have a convention, and they can only choose one candidate. If it is the Libertarian Party, Independent American Party, or Green Party, they can only nominate one candidate. They do not have a primary. If there are two Democratic or Republican candidates, they would be in a primary against one another.

Assemblyman Thompson:

What if two Independent American Party candidates file on the front end and there is not a convention?

Janine Hansen:

This is the way the process works. No minor party candidates can file unless they are approved by their state convention. Those names then are turned into the Secretary of State and faxed to every county clerk and only the people on that approved list from the minor party can run. It limits it to one person who is approved by the state convention of that political party. It could be that an Independent American, Libertarian, or a nonpartisan candidate all run, so there is a potential for more than one candidate, but they cannot be from the same minor party.

Juanita Clark, representing Charleston Neighborhood Preservation:

We approve of this bill.

Chair Stewart:

Is anyone else in support of this bill? [There was no one.] Is anyone opposed to the bill? [There was no one.] Is anyone neutral to the bill? [There was no one.]

Senator Settlemeyer:

I remember the first time I saw a general election where there was a Democrat, a Republican, a Green Party candidate, a Constitutional Party candidate, and a Libertarian. I wondered how that happened, so I can understand the confusion. This bill just addresses three aspects.

Chair Stewart:

The hearing is closed on S.B. 499 (R1) and we will open the hearing on Senate Bill 293 (1st Reprint).

Senate Bill 293 (1st Reprint): Revises provisions relating to the disposition of unspent campaign contributions. (BDR 24-596)

Senator Greg Brower, Senate District No. 15:

Assemblyman Hickey and I are here to present Senate Bill 293 (1st Reprint). This bill has an interesting history. *Nevada Revised Statutes* (NRS) 294A.005 was amended in 2007 to change the definition of "candidate" to include the following: any person who, (1) files a declaration of candidacy, (2) files an acceptance of candidacy, (3) whose name appears on an official ballot at any election, or (4) any person who has received contributions in excess of \$100 regardless of whether the person has filed a declaration of candidacy or an acceptance of candidacy, or the name of the person appears on an official ballot in any election. This change created a loophole in the law whereby a former elected officer, including a legislator, could keep his or her campaign account open indefinitely even after leaving office provided that he or she could say I am a "candidate" under the above mentioned statute because someone gave me more than \$100 in campaign contributions. It is a loophole because NRS requires that once someone leaves office, whether he retires, is termed out, decides not to run, or is defeated, he must close his campaign account and dispose of any remaining funds. That is provided for in NRS 294A.160.

In 2009, former Senator John J. Lee introduced Senate Bill No. 210 of the 75th Session in an effort to close this loophole. That bill passed the Senate 21 to 0, but mysteriously never got a hearing in the Assembly.

In 2012, Assemblyman Hickey and I noticed that a former member of this body who had not been in office since the 2009 Session was still filing campaign finance reports, and apparently had a lot of money in her campaign account and was making campaign contributions during previous election cycles. We wrote a letter to the Secretary of State inquiring whether or not this activity was in violation of NRS. The Secretary of State explained no, but that the former legislator was taking advantage of a loophole.

In 2013, Assemblyman Hickey and I introduced what essentially is the bill in front of you, but mysteriously, despite no opposition to the bill, it was not voted on in Committee, so we are back with S.B. 293 (R1). The bill is aimed at finally closing this loophole. This bill states that if a person who qualified as a candidate under NRS 294A.005 because he or she accepted more than \$100 must become a candidate within four years of the event that enabled him

or her to take advantage of this new candidate characterization. If he or she does not become a candidate within that four-year period, then those funds must be dispersed from the campaign account and the account must be closed. It is a bill aimed at closing the loophole that I think the Committee now understands exists.

Assemblyman Pat Hickey, Assembly District No. 25:

I want to speak practically and plainly about the results of this issue. If through this loophole, former elected people are allowed to keep campaign monies, and understand that some people, especially in leadership, raise a lot of money in a legislative body such as this, they would have it with them when they retire, are term limited, or when they are defeated at the next election. Through this loophole of getting \$100 in the period of a few years even though they have never declared candidacy, they can keep that money, and in effect it becomes a slush fund. There is no better way to describe it because that person, regardless of their party affiliation, can dole that money out to future candidates and that was not the intention. When you are no longer a candidate, there are means and measures whereby you can contribute that money to a political organization, your caucus, the candidates of your choosing, or to nonprofit organizations. The law states that you have to dispense that money, but through this loophole of receiving \$100 or more in contributions every two years, your account can be open for perpetuity and can serve as a political slush fund. That is a loophole that this bill intends to close with your support.

Chair Stewart:

If Assemblyman Ohrenschall and I retire after the next session, could we continue to support other people under this bill?

Senator Brower:

That issue came up in the Senate, and it is a good question. Yes, you can. Legally, even if this bill were to pass, you could transfer the existing funds in your campaign account to a political action committee (PAC) that you may want to create and then you can use that PAC indefinitely to contribute to the candidates and political causes of your choice, but you could not keep the personal campaign account as a slush fund indefinitely. That is the loophole.

Assemblyman Elliot T. Anderson:

Is that a distinction without a difference if funds can be transferred to a PAC? Can you explain why one is okay and the other one is not? That does not make any sense, especially in the age of Citizens United, where in that instance anyone can spend a ton of money. Are we getting into the weeds of the campaign finance world where it is all slushy?

Senator Brower:

No, it is not getting too far into the weeds. The difference is that if you were to leave office with \$50,000 in your account and transferred it to a PAC, that PAC could then dole out the money to future candidates and causes, but only in accordance with the limits on campaign contributions. If Assemblyman Stewart left with \$50,000 and transferred his campaign funds to a PAC and later he wanted to contribute to Assemblyman Munford or Assemblyman Ohrenschall for a future election, he could do so, but he would be limited by the \$5,000 primary, \$5,000 general caps. If Assemblyman Stewart wanted to keep his campaign account open indefinitely, he would be limited by the \$10,000 cap as far as contributing to others, but he would be able to use that entire amount for himself if he wanted to. That is another unintended consequence of this loophole. So there is a difference.

Assemblyman Elliot T. Anderson:

It has to be an expense related to a public office or a germane campaign contribution. You could not use it for yourself. Our campaign accounts cannot be used for personal use. That is prohibited by law.

Senator Brower:

I did not say personal use. I meant that it could be used for a future campaign. The loophole that this bill closes is if Assemblyman Stewart is termed out and he wants to keep his campaign account for a future race, he can do so as long as he becomes an actual candidate within 4 years, but not 5, 6, 10, or 20 years later. Also, in the meantime, he could not dole out money as contributions to other candidates.

Assemblyman Moore:

Would you be open to limiting the contribution that you could make? If someone termed out, he cannot open a PAC, but like Senator Farley's bill, it goes back to the donor or to a nonprofit organization. In other words, to prohibit people from amassing large amounts of money to dole out to someone else, can there be a limit placed on the money and can it be forced to go elsewhere?

Senator Brower:

I missed the part about Senator Farley. Did you misspeak?

Assemblyman Moore:

No, she mentioned on another bill that was not related to yours that candidates would be forced to return donated money, if they were ineligible to run for office, to the donors or give it to a nonprofit organization. I am referring to the same scenario for not allowing people to amass large amounts of money.

Senator Brower:

It is an interesting concept. I think except for this loophole that we have identified what candidates or elected officials do with their money within the law is between them and their donors. If someone leaves office with \$50,000 he has not spent during his political career, he is termed out and wants to transfer that money to a PAC, I do not see a problem with that.

Chair Stewart:

Is anyone in support of the bill? [There was no one.] Is anyone opposed to the bill? [There was no one.] Is anyone neutral to the bill? [There was no one.]

Senator Brower:

This is now the third session that this loophole-closing bill has been introduced and heard in at least one house. There has not been a single word of opposition testimony and not a single no vote when it has come up for a vote. We are hoping this time around that we can get both houses to bring it up for a vote and close this loophole once and for all.

Chair Stewart:

The hearing is closed on S.B. 293 (R1), and we will open the hearing on Senate Bill 248 (1st Reprint).

Senate Bill 248 (1st Reprint): Revises provisions relating to the provision of assistance to certain voters. (BDR 24-982)

Brian M. Patchett, President/CEO, Easter Seals Nevada:

Senate Bill 248 (1st Reprint) came out of a personal experience that I had and also from conversations with other individuals with disabilities. Over the years, I have voted in different states, and I have lived in Nevada for 11 years and hope to be here for the rest of my life. I have a visual disability and when I go to the voting poll, I ask the poll worker if my wife can assist me. She reads the candidates' names and other information, and I tell her what selection I want to make. My wife and I have to sign the forms to acknowledge our actions. That is what has brought this bill forward. So I asked Senator Hardy for his help.

In the bill, you will notice there is language that has been crossed out because somehow our legal counsel went down the wrong path by creating an identification (ID) card for people with disabilities, which was not our intent. Eventually we looked at the Voting Rights Act and Americans with Disabilities Act (ADA) and realized this was a simple situation. We could fit it in and make changes to the existing *Nevada Revised Statutes* that do three things. The changes allow people with disabilities to acknowledge that they have a disability and ask for accommodations without being required to fill out a form or being

singled out in any other way, to receive that accommodation, and to be able to cast their ballot. This also would apply to individuals whose first language is not English. Along with that, the language in the bill also talks about absentee ballots and addresses the same issue. We are trying to accomplish making the voting process simpler for people with disabilities and for people whose second language is English so they are able to vote.

Senator Joseph (Joe) P. Hardy, Senate District No. 12:

I am here to support Brian.

Assemblyman Thompson:

Have you had a chance to talk with the registrar of voters? The wording in the bill refers to a registered voter requesting such assistance in any manner. I want to ensure the poll worker is properly trained to meet the needs of the disabled voter.

Brian Patchett:

That is exactly what we hope to do. If this bill is passed, we want to provide that training. It is a good point because at the end of the day, that also becomes one of the challenges. In that situation, volunteers would need appropriate training and training materials being provided to them which makes sense.

Assemblyman Ohrenschall:

If this bill passes, and someone wants assistance, will it be limited to a spouse, a relative, a neighbor, or a friend? Will there be a certain designated person who would be allowed to assist the voter, such as an election board official?

Brian Patchett:

There are specific things noted in the language in the bill concerning folks who cannot be a part of that process. This person cannot be the voter's employer or union representative. This is in line with what the Voting Rights Act of 1965 stated. It is not just limited to a person helping you to vote—it may also include some type of technology that a person might use to enlarge what is on the voting screen. It is just acknowledging that a person can use whatever might be appropriate to help him vote without being unduly influenced by someone who might have nefarious reasons for influencing that person's vote.

Chair Stewart:

Is there anyone in support of this bill?

**Sam Lieberman, Government and Community Relations Coordinator,
Easter Seals Nevada:**

I am also a member of Easter Seals Nevada, and we are in support of this bill which was created by our CEO Brian Patchett. It is the correct thing to do but more importantly, it will also make the general public who live with disabilities more comfortable with the electoral and voting processes and make them more likely to participate.

Chair Stewart:

Is anyone in opposition to the bill? [There was no one.] Is anyone neutral to the bill?

Juanita Clark, Private Citizen, Las Vegas, Nevada:

Having personally been a poll worker, I feel that our form and process was par excellence because in cases where voters were under duress, I believe they had sufficient assistance in order for them to vote.

Sam Lieberman:

Under current law, the decision as to whether assistance can be provided to the disabled voter would be given to the volunteer whereas in this proposed legislation, the decision would be given to the voter. In addition, more strict guidelines would be established.

Chair Stewart:

I went on an excellent tour of your facility at Easter Seals Nevada. Do you still give those tours?

Brian Patchett:

We do and I appreciate you being there. All members of the Legislature are also invited to tour our facility.

Chair Stewart:

The hearing is closed on S.B. 248 (R1). [A letter of support from Brian Patchett was submitted but not discussed ([Exhibit G](#)).] We will now open the work session starting with Senate Bill 104 (1st Reprint).

Senate Bill 104 (1st Reprint): Makes various changes relating to political advertising. (BDR 24-86)

Carol M. Stonefield, Committee Policy Analyst:

The first bill is Senate Bill 104 (1st Reprint). It was heard in this Committee on April 30 and was presented by Senator Settlemeyer. The bill provides an exception to the requirement that political advertisements disclose the name of

the person or entity who paid for such advertising, a requirement which includes a statement indicating that the advertisement was approved by a candidate. This proposed exception in the bill applies to any statement or communication appearing on any article of clothing, regardless of its cost, and certain other forms of advertising including buttons, pens, candy, jar openers, and other items having a retail value of less than \$5 each. No amendments were proposed ([Exhibit H](#)).

Assemblyman Elliot T. Anderson:

Senator Settelmeyer, would you be willing to exclude silk screen t-shirts from these exceptions? I think it is easy to put the disclaimer on those t-shirts. I want to tighten it up a little bit.

Senator James A. Settelmeyer, Senate District No. 17:

I have no problem with that type of a concept for an amendment.

Assemblyman Elliot T. Anderson:

I think putting the disclaimer on embroidered t-shirts is harder than putting it on silk screen t-shirts.

Kevin Powers, Committee Counsel:

This excludes some items from the requirement but there is an exception to the exclusion and Assemblyman Anderson wants to add silk screen t-shirts to the exception to the exclusion.

Assemblyman Elliot T. Anderson:

That is correct. The disclaimer needs to be added to silk screen t-shirts because it would be easy to add.

Kevin Powers:

On page 2, lines 7 through 10 of the bill is the exception to the exclusion. Silk screen t-shirts could be added to the exception to the exclusion.

Senator Settelmeyer:

I have no problem with that amendment, but is up to the Committee whether they have a problem with the amendment.

Assemblyman Thompson:

Senator, for clarification, what is the bill stating that the disclaimer has to be printed on?

Senator Settlemeyer:

The bill in its present form, without entertaining an amendment, indicates that if the item in its value "each," which was the word added by Senator Atkinson, is below \$5, such as a pen, the disclaimer "paid for by" would not have to be added. By recommendation of my Committee, we did not feel that it was proper to put "paid for by" on any item of clothing, such as silk screen hats and printed or embroidered hats due to limited space. Also in the case of embroidery, the cost is by the stitch so it seemed problematic. Usually when people wear embroidered clothing, they pay for it. That is why our Committee eliminated any reason to print "paid for by" on any article of clothing or an item having a retail value of less than \$5. An exemption to that was left for mailers because every mailer should have the disclaimer on it. If it is a printed material in paper form, it clearly has to have "paid for by" on it. That is the bill in its present form without Assemblyman Anderson's proposed amendment.

Assemblyman Thompson:

The exclusion will include the items in lines 7 through 10 of the bill, correct?

Senator Settlemeyer:

Page 2, lines 7 through 10 indicate that the exclusion otherwise provided by this subsection does not apply to door hangers, bumper stickers, yard signs, advertising through television or radio broadcast, newspaper, magazine, outdoor advertising facility, or mailing. We think it is important to have the disclosures on those items. We felt it was simple because it was a part of the printing process, it would not cost any more for the ink, and would not take away from the logo. Because of the low value on the other items, such as a pen and the limited printing space on the items, it created problems putting either your name, what seat you were running for, or your website.

Assemblyman Elliot T. Anderson:

I think we all agree that transparency is good. Under this bill, I recognize there are places where this concept does not work such as the embroidered t-shirts and small items like pens and gumballs. It is not practical. I believe this bill makes sense, but I think it would be easy to put the disclaimer on silk screen t-shirts. It does not cost much to put the disclaimer on them and more transparency is better.

Chair Stewart:

I think this is a minor issue and, Assemblyman Anderson, with your permission, we will vote without the amendment. Is that all right with you?

Assemblyman Elliot T. Anderson:

Mr. Chair, if you want to vote this bill as a do pass, that is fine.

Chair Stewart:

I entertain a motion to do pass Senate Bill 104 (R1).

ASSEMBLYMAN ELLIOT T. ANDERSON MOVED TO DO PASS
SENATE BILL 104 (1ST REPRINT).

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Is there any other discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

Assemblywoman Seaman will present the floor statement. The next bill before the Committee is Senate Bill 322.

Senate Bill 322: Revises provisions relating to printed electioneering communications. (BDR 24-733)

Carol M. Stonefield, Committee Policy Analyst:

Senate Bill 322 was heard in this Committee on April 23 and presented by Senator Harris. The bill requires disclosure for written electioneering communications and on the bill summary page it indicates the size of the printed materials and the proposed font size of any written material. Finally, the bill authorizes the Secretary of State to set larger font sizes by regulation, if necessary. No amendments were proposed ([Exhibit I](#)).

Chair Stewart:

Do I hear a motion?

ASSEMBLYMAN THOMPSON MADE A MOTION TO DO PASS
SENATE BILL 322.

ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

Is there any discussion?

Assemblyman Ohrenschall:

I want to make a clarification. This is completely prospective. If someone has old signs sitting in a storage shed, will the new signage information need to be reprinted in the new font size on the old signs?

Assemblywoman Seaman:

In previous testimony from Ms. Harris, the font size would need to be changed.

Kevin Powers, Committee Counsel:

This piece of legislation is prospective in scope because there are not any particular provisions that require it to be retroactive. However, it is prospective in the sense that if those signs are used for another election, they have to conform with this law.

Assemblywoman Shelton:

I am voting this bill out of Committee, but I want to reserve my right to change my vote in floor session. I am concerned about it getting too specific.

Chair Stewart:

Is there any more discussion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Moore will present the floor statement. The next measure before the Committee is Senator Joint Resolution No. 2.

Senate Joint Resolution 2: Urges Congress to require the sharing of federal receipts from commercial activity on certain public lands with the State of Nevada and its counties. (BDR R-452)

Carol M. Stonefield, Committee Policy Analyst:

This resolution was heard in this Committee on April 23 and was presented by Senator Goicoechea. This resolution urges Congress to enact legislation requiring the sharing of federal receipts from all commercial activity occurring on Nevada's public lands, and sharing the revenue with the state and its counties. No amendments have been proposed ([Exhibit J](#)).

Chair Stewart:

Do I hear a motion to do pass?

ASSEMBLYWOMAN SEAMAN MADE A MOTION TO DO PASS
SENATE JOINT RESOLUTION 2.

ASSEMBLYWOMAN FIORE SECONDED THE MOTION.

Is there any discussion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

Assemblywoman Fiore will present the floor statement. The last measure before the Committee is Senate Joint Resolution 4.

Senate Joint Resolution 4: Urges Congress to enact the Marketplace Fairness Act. (BDR R-98)

Carol M. Stonefield, Committee Policy Analyst:

This bill was heard on April 30 and was presented by Senator Woodhouse. Senate Joint Resolution 4 urges the United States Congress to pass the Marketplace Fairness Act, which would provide the states with the authority to require out-of-state retailers, such as online and catalog retailers, to collect and remit sales tax on purchases shipped into the state. No amendments have been offered. There is a note that in March the latest iteration of the Marketplace Fairness Act was introduced in the 114th Congress and referred to the Senate Committee on Finance ([Exhibit K](#)).

Chair Stewart:

Do I hear a motion to do pass S.J.R. 4?

ASSEMBLYMAN TROWBRIDGE MADE A MOTION TO DO PASS
SENATE JOINT RESOLUTION 4.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Chair Stewart:

Is there any discussion?

Assemblywoman Shelton:

I will be voting no on this resolution. For me, online transactions have a disadvantage to the brick-and-mortar business because of shipping costs. In addition, shipping creates jobs so I think there is a balance. One has to pay the sales tax and one has to pay the shipping costs.

Assemblywoman Seaman:

I will be voting no on this resolution.

Assemblywoman Fiore:

Ditto.

Chair Stewart:

Is there any further discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN FIORE, MOORE,
SEAMAN, AND SHELTON VOTED NO.)

Assemblyman Munford will present the floor statement.

Is there any public comment? [There was none.] The meeting is adjourned [at 5:38 p.m.].

RESPECTFULLY SUBMITTED:

Patricia Hartman
Committee Secretary

APPROVED BY:

Assemblyman Lynn D. Stewart, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Legislative Operations and Elections

Date: May 5, 2015

Time of Meeting: 4:06 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 274 (R1)	C	Frank Schnorbus, Convention of States	Letter of support from State Director
S.B. 274 (R1)	D	Shawn M. Meehan, Guard the Constitution Project	Attorney General Opinion No. 2000-11
S.B. 274 (R1)	E	Shawn M. Meehan, Guard the Constitution Project	Congressional Research Service Report, April 11, 2014
S.B. 274 (R1)	F	Shawn M. Meehan, Guard the Constitution Project	Federal Convention Act 1973
S.B. 248 (R1)	G	Brian Patchett, President/CEO, Easter Seals Nevada	Letter of Support
S.B. 104 (R1)	H	Carol M. Stonefield, Committee Policy Analyst	Work session document
S.B. 322	I	Carol M. Stonefield, Committee Policy Analyst	Work session document
S.J.R. 2	J	Carol M. Stonefield, Committee Policy Analyst	Work session document
S.J.R. 4	K	Carol M. Stonefield, Committee Policy Analyst	Work session document