

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

**Seventy-Eighth Session  
March 25, 2015**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Patricia Farley at 3:33 p.m. on Wednesday, March 25, 2015, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 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 Patricia Farley, Chair  
Senator James A. Settelmeyer, Vice Chair  
Senator Greg Brower  
Senator Kelvin Atkinson

**COMMITTEE MEMBERS ABSENT:**

Senator Tick Segerblom (Excused)

**GUEST LEGISLATORS PRESENT:**

Senator Becky Harris, Senatorial District No. 9  
Assemblyman Pat Hickey, Assembly District No. 25

**STAFF MEMBERS PRESENT:**

Michael Stewart, Policy Analyst  
Brenda Erdoes, Legislative Counsel  
Haley Johnson, Committee Secretary

**OTHERS PRESENT:**

Janine Hansen, Independent American Party; President, Nevada Families for Freedom  
Alan Glover, Office of the Secretary of State  
Jeanne Shizuru

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Douglas Johnson, Convention of States  
Jay Craddock  
David Nelson  
Bob Yandow  
John Wagner, Independent American Party  
Shawn Meehan, President, Guard the Constitution Project  
Lynn Chapman, Eagle Forum  
Bonnie McDaniel

**Chair Farley:**

I open the hearing on Senate Bill (S.B.) 322 presented by Senator Becky Harris.

**SENATE BILL 322**: Revises provisions relating to printed electioneering communications. (BDR 24-733)

**Senator Becky Harris (Senatorial District No. 9):**

It is an honor to be here today to introduce S.B. 322. This bill would bring greater transparency to campaign practices, specifically political advertisements. I have submitted my written testimony ([Exhibit C](#)).

**Senator Atkinson:**

I am trying to figure out examples of the types of publications this applies to.

**Senator Harris:**

Specifically, my intent is campaign signs.

**Senator Atkinson:**

In my 14 years, I have never heard anyone complain about font size. What is the issue?

**Senator Harris:**

During my campaign, it was brought to my attention that when you have a variety of different people advocating for or against candidates, there needs to be more clarity as to who is actually paying for that political speech. Sometimes the disclosures and disclaimers are even left off entirely.

**Senator Atkinson:**

We are just talking about the disclosure part of it?

**Senator Harris:**

Yes. Just the language, so there is responsibility or ownership of a specific communication.

**Senator Farley:**

Anyone wishing to speak in favor of S.B. 322, please come forward.

**Janine Hansen (Independent American Party):**

We support S.B. 322. It is good to know who is doing what.

**Chair Farley:**

I will now close the hearing on S.B. 322.

I turn the gavel over to the Vice Chair, Senator Settlemeyer, so that I may present Senate Bill 403.

**SENATE BILL 403**: Revises provisions relating to elections. (BDR 24-799)

**Senator Patricia Farley (Senatorial District No. 8):**

It is an honor to introduce S.B. 403. This bill addresses the growing number of candidate residency issues that we have seen in the last few years. I have submitted my written testimony ([Exhibit D](#)).

**Senator Atkinson:**

An individual does not necessarily have to be a candidate for this legislative body because we are talking about residency.

Say the individual is elected and is seated. In the process, a district court judge rules that she or he violated the residency provisions. The individual raised \$150,000 to complete a campaign and then spent it all by election time.

You now suggest that, as punishment, candidates have to find a way to reimburse the \$150,000. If they have tapped it out, which more than likely they would have at this point, they have to figure out how to personally finance the amount to pay it back. Is this correct?

**Chair Farley:**

My original intent was to deter individuals from violating the residency requirement to run in an election. If during the campaign process the individual

does not meet the residency requirement and is found by a district court to be guilty of violation, then the individual will be punished.

So regardless of whether they were appointed to the seat or not, if they were found by district court ... .

**Senator Atkinson:**

We are not talking about an appointment; we are talking about being seated. This situation occurred in the Assembly, and the individual was seated.

I agree that people should know the law; they should know exactly what it means. It seems as though the punishment is a lot more stringent than if a person just had to go to court.

**Chair Farley:**

If the individual were found to have violated the law and she or he took money from people fraudulently, that individual should have to return that money.

Even though the party still seated that person, I do not think that negates the fact that the law was broken by campaigning under false circumstances.

I have a hard time thinking that if an individual is going to falsely run, that she or he could productively or honestly serve in office.

**Senator Atkinson:**

I can agree with that, but the punishment does not seem to fit the crime. Sometimes folks are not as sophisticated as we are; we understand this issue better. An individual could make the error, thinking that she or he qualifies to run.

We need to do a better job as a State to ensure that an individual in this case does not get seated and that she or he is kicked off the ballot, making it so that they can never run again. We need to enforce a penalty, but this is harsher than what the individual might face in a courtroom.

**Chair Farley:**

I am thinking now that the execution of this is key.

If the individual signs where she or he has lived, there can be a disclosure statement explaining that if she or he has not lived at the listed address for 30 days then the individual does not qualify. It can be amended to require that it be clearly stated; that if the individual raises money for a campaign to which she or he does not qualify, the money raised must be paid back.

We can work with the Secretary of State's Office to make sure it can be made clear to candidates who are filing to run for office.

People who break the law under these circumstances are not punished for their actions. We saw a race in the Assembly this time where even though the individual's name was pulled off the ballot, voters did not know and the individual continued to do well.

**Senator Atkinson:**

In all fairness, that case is a good example where the system worked.

**Senator Settlemeyer:**

Maybe we could ask legal counsel about this, but I do know of a situation that has happened in the past. We do have a section of law that states if you collected \$10,000 for your primary and you lose, the individuals can request you pay them back.

We already have a point of law that requires you to pay back an individual. I think that this goes along with that, and I just wanted to offer that for discussion.

**Senator Atkinson:**

Senator Settlemeyer, I get that, but we are not talking about \$10,000; we are talking about more. I know exactly what section you are talking about. We have all been around long enough to understand that, but this is far different.

**Chair Farley:**

The other issue is when voters write campaign checks. Say I believed in an individual who told me that she or he wants to run for election and I want to help. I write a check for \$1,000 and give the individual the money; I realize this person knew she or he was not eligible to run and accepted that money from me anyway. I deserve my money back.

Or at minimum, I would be okay if that person, the party or whoever behind them had to pay a nonprofit back.

We need to stop saying that these things are okay. It hurts all legitimate candidates who ask the same people for their support. Potential donors become weary of donating their money to new people who are trying to enter a race.

We need to step it up saying if an individual accepts someone's money, the potential candidate does the right thing. And the right thing is following the laws and conducting myself with honesty and professionalism. If you gave me a check, I am going to do what I told you I was going to do with those funds.

Being a first-time candidate, having to ask for money was hard. I just want to ensure that people know there is a system of integrity behind my actions.

**Senator Settlemeyer:**

What about the amendment with a limitation of campaign funds available? In previous situations, you did have individuals who still had campaign accounts with money and they used those accounts to run for yet other races. I have a problem with that. We should do something of that nature or discuss that.

**Chair Farley:**

The party needs to be aware that if they are moving people into positions, they need to make sure that these people are qualified and legitimate, especially when you are going to your donor base asking for money.

**Senator Atkinson:**

We have to be reasonable. A person who commits any crime should be punished, but we are having a difficult time understanding what level a person should be punished for the crime committed.

I agree with Senator Settlemeyer that the person should have to give all the money back if found to have violated the law. I am not sure that by contacting and allowing the donor to make the decision whether to get the money back is the correct way to approach this.

It would be difficult for a donor, especially in this body, to tell somebody to give money back even if found to be in violation of the law. The donor still knows that the individual is part of a certain caucus.

A donor would be in a very difficult position in this case.

**Chair Farley:**

I agree with that; so if an amendment actually solves the issue while keeping all parties and all candidates honest, I would be happy to work with you on it.

**Alan Glover (Office of the Secretary of State):**

We support S.B. 403. There are a number of bills floating around this Session to deal with this exact issue; so there are a variety of ways to approach this.

When I first saw this bill, I was impressed by the creativity of the Chair. The goal here is to prevent people who do not live in the district from filing for office. I think S.B. 403 does that in a rather simple manner.

As far as the Secretary of State's Office goes, in section 3, subsection 7, we have no problem handling installment payments. It does not take a fiscal note. We do not anticipate anyone doing this. We only get one or two instances, so it can be handled in the fashion that the bill requests.

Another avenue would be for the Secretary of State's Office to put a section into the candidate's manual on this subject. We can add that if you are filing for office and a court rules that you are not eligible, it is going to cost you a lot of money. This allows us to inform them in every way possible; it is a serious issue, so be very careful to check your residency.

We like the overall concept very much; we think that it will work. It fits in with other bills that are being proposed and does not conflict with any of them. I think it is an innovative way to handle this issue.

**Ms. Hansen:**

I support the concept, although I have concerns. Sometimes there are situations where individuals are inexperienced and have not run for office before. I like that the individual would have to be found in violation by a court. Oftentimes when it has gone to the Secretary of State's Office, there is no due process or appeal process.

In my own experience, a couple of years ago, I missed the deadline to file expenses for running for office because of a family emergency. Since then, the law has been changed so the Secretary of State's Office actually has more

leeway in addressing these issues. This month, I hope to pay off the last of my fine that I have been paying for a couple of years now.

As you can see, there are situations that are beyond an individual's control or an individual may be inexperienced. As Senator Atkinson was saying, what is a person going to do if they raise \$150,000 and are required to pay it back?

I understand that the individual ought to know the residency requirement in advance, but mistakes can be made. Perhaps there should be some kind of an appeal process, especially if they have to pay back all this money.

Right now, it is entirely dependent on what the Secretary of State's Office determines, which I have found in the past can be capricious. If the Secretary of State does not like a particular political party, there can be harsh penalties for some, while others may get off without penalty.

It seems a little extreme to have to pay off \$150,000. We have had people in our party who have ended up losing their homes due to paying large fines. I bring that to your attention because I see no appeal process in terms of having mercy or compassion that might be important under certain circumstances.

**Senator Atkinson:**

Ms. Hansen, I am glad that you brought that up because I too know a gentleman who had to take out a second mortgage on his home and ended up losing it.

**Chair Farley:**

Thank you for the discussion. I will meet with the parties to draft an amendment.

**Senator Settlemeyer:**

I close the hearing on S.B. 403 and return the gavel to the Chair.

**Chair Farley:**

I open the hearing on S.B. 274, sponsored by Senator Settlemeyer.

**SENATE BILL 274:** Enacts provisions governing the State's delegates to any federal constitutional conventions. (BDR 24-600)



**Senator James A. Settelmeyer (Senatorial District No. 17):**

Senate Bill 274 concerns the individuals who could potentially be sent to represent the State of Nevada on a particular issue at a federal convention and the consequences if a representative decides to go rogue.

When it comes to amending the United States Constitution, there are two ways that it can occur. One, by a two-thirds vote of both Houses agreeing to amend the Constitution; or two, by two-thirds of several state legislatures calling for a constitutional convention for proposing amendments.

Nevada is already in agreement with other states on the concept of having an amendment drafted for either term limits or a balanced budget. Two-thirds of the states would have to get together and call for an Article V constitutional convention to address an issue. Once a convention is called, then comes the ratification process by three-quarters of several state legislatures or ratifying conventions.

Individuals sent to a convention to represent the State should have to stick to the script and be required not to deviate from their duty as representatives of the State. If they decide to go rogue, their vote should be void and there should be consequences.

I am not sure why but section 12 on page 5, line 18 says that an individual who is a registered lobbyist should not be allowed to be a representative at a constitutional convention. I really do not agree with that provision because there are many citizen lobbyists in Nevada who would be prevented from attending a convention.

If the representative decides to go rogue and not stick to what she or he has been sent to talk about, knowingly and intentionally acting in a way that is deceptive to their specific duty, there will be a penalty. Senate Bill 274 in section 16, page 7, lines 24 through 37, states that the individual would be guilty of a misdemeanor, barred from being employed in public service or running for office. The individual would be liable for up to \$5,000 in court costs and attorney's fees.

Some may find these provisions to be strict, but the U.S. Constitution is worthy of protection. I am not calling for a constitutional convention in any way. I am stating that if for some reason people are sent to represent our State at a

convention, they will be set forth with specific parameters and if they go rogue, their vote will be considered void and there will be a penalty.

**Chair Farley:**

If you would like to testify in favor of S.B. 274, come forward at this time.

**Jeanne Shizuru:**

I am in favor of S.B. 274 because there is concern regarding the Article V convention when it comes to what delegates might do if a convention is actually called. I appreciate that Senator Settlemeyer has put forward a bill to keep people within the mandate of their state legislature.

Senate Bill 274 is important because if we can limit what the delegate can do, we would go a long way to give Nevadans reassurance of what might occur at one of these conventions.

**Doug Johnson (Convention of States):**

The Convention of States is the organization trying to call an Article V constitutional convention. I support the bill because in talking with Legislators, it appears that a number of them are concerned that if they send a delegate to a convention, the individual could possibly go rogue. Senate Bill 274 might prompt some of the Legislators, who are otherwise unwilling to allow the citizens to go through the process of the Article V convention, to go forward to amend the U.S. Constitution. This is the citizens' amendment process.

If the Legislators in Nevada are confident that delegates sent to the convention will be under the control of the Legislature, they will be more willing to allow the citizens to propose amendments.

**Jay Craddock:**

Our U.S. Constitution is over 200 years old, Nevada is 150 years old. This is unfinished business that needs to be taken care of.

My family is not complacent with this oversight. It is time that we establish a delegate selection process and a control policy for delegates sent to a constitutional convention.

An Article V constitutional convention is a pressure relief valve for the citizens and the way sovereign states work as a balance to the federal government.

The selection process talks about electors. Electors can be either voters or the electors who vote in the Electoral College. I think that there needs to be a definition applied to that particular word in the bill.

We need to take care of this, I strongly support S.B. 274.

**David Nelson:**

I support S.B. 274 because there will eventually be an Article V convention whether Nevada takes part or not. Thirty-four states will come together at some point in the future, and Nevada needs to be prepared for that situation.

**Bob Yandow:**

I agree with previous speakers in favor of this bill. I would like to add that The Assembly of State Legislatures already has representatives from almost 30 states who have met three times planning for an Article V convention. I strongly recommend that our State is involved in that.

**Chair Farley:**

If anyone else wishes to speak in opposition to S.B. 274, please come forward. A letter has been received from Peter Hennessey from Carson City in opposition ([Exhibit E](#)).

**Ms. Hansen:**

I gave you all a copy of the U.S. Constitution with Article V highlighted ([Exhibit F](#)). We need to look at the first two words, which are "The Congress" and then of course it goes on to talk about the Article V convention.

That is important because the bill on page 2, line 20 says: "Even though the state legislatures are empowered to make such applications, the power of Congress to call the convention is a federal function, and Congress may regulate the process of proposing amendments to the United States Constitution."

The definition of regulate means, in other words, that Congress has the power to control, maintain, adjust and manage by means of rules and regulations.

The congressional history on this is quite interesting. U.S. Senator Sam Ervin from North Carolina was one of the first people who introduced a bill which would have provided rules and regulations for an Article V constitutional

convention. After that, U.S. Senator Orrin Hatch from Utah introduced another bill several sessions later that was almost identical.

The aforementioned federal bills stated that upon a concurrent resolution calling for a convention, state delegates would be composed of two elected delegates at large and one delegate elected from each congressional district. Each delegate would have one vote in the convention.

This is in direct conflict with Senator Settelmeyer's bill on page 4, section 10 which states:

"The provisions of sections 2 to 16, inclusive, of this act must not be interpreted to authorize the State of Nevada to participate in an Article V convention unless the rules and procedures of the Article V convention provide that each state of the United States possesses one vote equal to the vote ... ."

In other words, the State of Nevada cannot participate unless the rules of the convention provide that each state have only one vote.

If Nevada were to participate and Congress sets the rules as they have the power to in Article V, according to what has happened in Congress in the past, Nevada might be completely excluded from the constitutional convention with this limiting language—it would only be one equal vote.

If there is a constitutional convention, which I oppose, we certainly would not want to be excluded because of the language of this particular bill. In addition, this bill gives us false hope that we can limit a constitutional convention.

On page 7, line 19 reads that,

"the delegation's act or vote is void by operation of law and must be treated as having no legal effect, and the Legislature's application calling for the Article V convention ceases to be a continuing application and must be treated as having no legal effect thereafter."

So if the delegates violate their oath of office, they are removed or the State is removed because it says the Legislature's application calling for an Article V convention ceases to be a continuing application.

These delegate limitation bills are being promoted all over the Country as a precursor to passing calls for a constitutional convention. We do not support a constitutional convention, and we are opposed to anything that would give us the false hope to do so.

I also want to submit a letter from Chief Justice Warren E. Burger, retired from the U.S. Supreme Court, ([Exhibit G](#)) where he said in June 1988 that he has repeatedly given his opinion that there is no effective way to limit or muzzle the actions of a constitutional convention. Whether a state attempts to do that, there is no definitive answer as to whether or not it can. We are very concerned with the eventuality.

**John Wagner (Independent American Party):**

If Congress calls for a convention, they set the rules. When it comes to who actually participates, they specify the who and how much. I do not see the federal government excluding themselves from any part of the process.

**Shawn Meehan (President, Guard the Constitution Project):**

Fifteen months ago, I founded the Guard the Constitution Project with the purpose to fight an Article V constitutional convention. Senator Settlemeyer talked about the fact that registered lobbyists would potentially be limited from acting as a delegate, so I agree that section should be removed.

Arguably if an Article V convention was called, we would want our citizens involved. Part of the problem with our U.S. Constitution is citizens are not involved. It can be argued that people who are legally registered here as lobbyists are some of our most engaged citizens. The problem is that this bill is to convince people that a convention is safe and we should allow it to happen.

I would like to submit a report ([Exhibit H](#)) by Congressional Research Service dated April 11, 2014. In this report on page 21, constitutional scholar Charles Black addresses the viewpoint that an Article V convention cannot be limited.

No matter how many states ask for it, Article V of the U.S. Constitution implies that Congress cannot be obligated to summon a convention, to limit purposes in dealing with electoral apportionment alone. Such a convention would have no constitutional standing. Any new constitutional convention must have the authority to study, debate, submit to the states for ratification, whatever amendment they consider appropriate.

According to this judgement, an Article V convention must be free to pursue any issues that it pleases despite limitations included in any state applications or congressional summons.

In *Dillon v. Gloss*, 256 U.S. 368 (1921), the U.S. Supreme Court ruled “as a rule the Constitution speaks in general terms leaving Congress to deal with subsidiary matters of detail as the public interests and changing conditions may require and Article V is no exception to the rule.” We cannot define the convention here in Nevada for our delegates.

Page 4, section 10 of the bill illustrates that if the vote or the number of delegates is not properly apportioned, one state-one vote, then Nevada is not going to participate. If we cannot come up with a way to control delegates or assign things, how could we still want to participate in a convention that arguably could be held? We would want to participate in some form or fashion.

Mr. Robert Natelson, the lead constitutional attorney for the Convention of States, wrote in *Amending the Constitution by Convention* that “If the convention wishes to alter the ‘one state, one vote’ rule, it may do so.” He also wrote in the American Legislative Exchange Council *Article V Handbook* that a convention is free to change the rule of suffrage.

Another interesting thing for those of us who have been involved in conventions is the concept that the Founders added in the 1787 executive session regarding adjournment. How can you recall delegates from a convention when you cannot communicate with them? It is not possible.

I agree that if a delegate disrespects the State and breaks the binding, we should recall and punish them. The problem is when a convention is convened, the convention makes the rules. The State of Nevada does not get to tell the convention what votes count. That is subject to the rules of the convention.

Much like a problem last Session where an Assemblyman had an issue with a firearm, the citizens had no play in the aftermath. The leadership under our State Constitution in that House decided the outcome, which is what the federal government will do with a convention.

I will finish by reading from the *Constitutional Brinksmanship* by constitutional attorney Russell Caplan from page 23 of [Exhibit H](#). He wrote:

The trend toward aggrandizement of power at a convention is supported by modern experience in the states. When delegates are presented with the choice of writing a new constitution or submitting a number of amendments to the existing document, they have exhibited a desire to become part of history by framing a new constitution.

In 1973, the U.S. Senate passed a bill that provided for rules for an Article V convention. It read:

“delegates shall in all cases except treason, felony and breach of peace be privileged from arrest during their attendance of the session of the convention, going to and from the same and for any speech or debate in the convention they shall not be questioned in any other place.”

When Article V is called, it is presumed that over the years Congress is going to stay with their precedent. Congress will pass things like this and as much as we should hold our delegates accountable, by matter of law we will not be allowed to.

**Lynn Chapman (Eagle Forum):**

People are worried about this type of thing because they do not know exactly who the delegates will be or who are they going to represent. I am concerned with how we follow up if someone makes the decision to go rogue.

Penalties can be established, but is it possible to go after someone? This is not a good idea. I am opposed to a constitutional convention and this bill.

**Bonnie McDaniel:**

I have been looking at a constitutional convention for many years, and this is the worst thing that we can do for our great Country. Please oppose S.B. 274.

**Senator Atkinson:**

Explain to me again how this bill would deal with what happened last Session with the individual who was expelled?

**Mr. Meehan:**

Senator Atkinson I was using an analogy to explain that much like the U.S. House or Senate having their own rules, at a convention, the federal government is authorized to discipline members legally by historically defined rules.

As soon as the gavel drops, that body is fully in power to change the rules. That is the concept we all want to control if it happens. My approach was to use an analogy to explain that what we intend and what we write is not going to work. As much as we may try, it is taken out of the hands of the states that send those delegates.

**Senator Settlemeyer:**

I appreciate the opportunity to introduce this bill today. Remember, there are two ways that you can amend the U.S. Constitution. This is not dealing with the first way in which the U.S. Congress and the U.S. Senate get together with two-thirds wanting to change the Constitution. We cannot limit what they do because they are the federal government. This is only addressing the second way when two-thirds of several state legislatures call for a convention. Under those parameters, legal counsel has indicated that we have the right to restrict what a delegate does.

The individuals talking about the congressional concept are purposely clouding the issue. That is not what this bill is about; this is about if there is a call for a convention. This bill does not say that we want an Article V convention to occur. In the case that Nevada must send a representative, I want to make sure that person only votes the way in which she or he has been instructed.

**Senator Brower:**

We will now close the hearing on S.B. 274 and open the hearing on S.B. 293.



**SENATE BILL 293**: Revises provisions relating to the disposition of unspent campaign contributions. (BDR 24-596)

**Senator Settelmeyer:**

Senator Brower, please introduce your bill.

**Sentor Greg Brower (Senatorial District No. 15):**

It is a pleasure to be able to present S.B. 293. Assemblyman Pat Hickey and I had the privilege of presenting this very same bill to an Assembly Committee in the 77th Session, but it was never heard in the Senate.

In 2007, NRS 294A.005 was amended to change the definition of a candidate. Under that statute, the definition includes the following: "Candidate" means any person: 1. Who files a declaration of candidacy; 2. Who files an acceptance of candidacy; 3. Whose name appears on an official ballot at any election; or 4. 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.

Under that section, a candidate can be defined as someone who has accepted at least \$100 in campaign contributions but never files a declaration of candidacy or appears on an official ballot.

A loophole was created by that amendment to the statute in 2007. It is a loophole because the law generally requires that once an individual leaves office, pursuant to the statutory scheme, she or he must close their campaign accounts and disburse their campaign funds. The current law however, includes a loophole that allows an individual who is defined as a candidate in any of the ways previously articulated to keep campaign funds intact and the account open indefinitely regardless of whether she or he ever actually becomes a candidate by filing for office.

In 2009, Senator John Lee introduced S.B. No. 210 of the 75th Session in an effort to close this loophole. The bill passed the Senate in a 21-0 vote, but was never heard in the Assembly.

In 2012, both Assemblyman Pat Hickey and I noticed that a certain former member of the Assembly, who had not been in office for some time, had a

campaign account open and was providing campaign donations to candidates. It seemed odd to us that this was possible under the law. Assemblyman Hickey and I wrote a letter to the Secretary of State and to the Attorney General inquiring as to whether this may be a campaign law violation or a loophole because frankly we did not know the answer.

The Secretary of State's Office responded and said that there was in fact a loophole, sharing with us the history of the 2009 bill by Senator Lee. It was suggested that we should discuss it further if we wanted to pursue a legislative remedy in 2013. That is exactly what we did, but the effort, as I mentioned, was not successful, so we are back now with S.B. 293.

The idea here is to finally close this loophole. Simply, what we propose is that a person who fits the definition of candidate in the way that I previously described, receiving at least \$100 in campaign contributions, can only remain a candidate by filing for office within 2 years. This would remove the current possibility that a person could remain a candidate and keep the campaign account open indefinitely despite never filing for office.

**Assemblyman Pat Hickey (Assembly District No. 25):**

I want to echo the statements made by Senator Brower. In addition, the meaning of loophole is pretty plain. What this loophole has created is the ability for a former elected person to create a slush fund.

We want to avoid not only that practice but the perception of it. This is one reform that affects everyone evenly. There certainly are appropriate ways to dispose of unspent campaign contributions by giving them to other candidates, to caucuses or to worthwhile nonprofit organizations. I hope to see this through both Houses this time.

**Senator Atkinson:**

The way I read it concerns if the individual is not going to seek office. In some cases, that person does not know if she or he will run for whatever reason. I agree that there should be a time limit but 2 years from when?

**Senator Brower:**

As the bill reads, it is 2 years from the qualifying event, which would mean the receiving of the \$100 that would enable the individual to continue to be a candidate under the current definition.

**Senator Atkinson:**

But could that be the next election cycle?

**Senator Brower:**

When the former elected official leaves office, whether defeated, termed out or deciding not to run, that person then has a period of time to decide to run again or close accounts. I believe the statute reads that it is the fifteenth day of the second month, which would normally be the case, but I guess if the former official resigns, it would be different.

But they have a finite period of time after they leave office to dispose of their campaign funds and close their accounts. The acceptance of at least \$100 would have to happen within that time in order for them to declare candidate status going forward.

**Senator Atkinson:**

What about individuals who are neither termed out or defeated, but may be considering different offices. How does that ... ?

**Senator Brower:**

Are they still in office?

**Senator Atkinson:**

They are out of office, whatever the case may be. They have this period of time where they are making a decision on a 2016 race or 2018 race.

I am trying to figure out how this affects the individuals who are waiting. I agree when they are termed out or defeated, but I am having a problem with the situation where individuals are deciding if they are going to run or not.

If a person is deciding on a future race, there are quite a few races in 2016 that our colleagues are considering ... .

**Senator Brower:**

Let us assume that one of our colleagues is termed out—cannot run in 2016—and contemplating running for something else in 2018. No longer a Legislator as of the 2016 election, the individual would have no later than the fifteenth day of the second month after that election to either close the account and disburse funds, or accept at least \$100 from someone. If the person did

collect \$100, it allows candidate status, giving 2 more years through the filing period for the 2018 election.

At that time, the individual could decide to run and file to be a candidate. Or if the person did not decide to run in 2018, the 2 years would be up and she or he could not hang on to the account for a potential run in 2020 or subsequently.

**Senator Atkinson:**

The problem I am still having is how are any of us to know whether we may do something in the future? We do not really know if colleagues are keeping the accounts to consider future races.

**Senator Brower:**

Well, we do not know. This bill simply clarifies that you can no longer keep a slush fund intact—with the idea of maybe running 5 years or 10 years down the road or never—to lobby and pass out campaign contributions. You cannot do that under this law. You get 2 years to make up your mind on a future run.

**Sentor Atkinson:**

But the way that you just explained it, do you really almost get 4 years?

**Senator Brower:**

No because ... .

**Sentor Atkinson:**

Well because one would get 2016 which would be the next election cycle and then 15 days after if you get \$100 between then ... .

**Senator Brower:**

The idea here is to account for the former elected official, allowing her or him to keep the campaign fund intact while contemplating a potential future run, but not forever. So, we picked 2 years.

**Senator Settlemeyer:**

Let us say you left your last term in 2015, you are out of office and 15 days after the second month someone gives you \$100. That gets you 2 more years; then in 2 years, if you file for office, are you good again?

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**Senator Brower:**

Correct, you are good again. You are now a candidate because you have filed a declaration for office.

**Senator Settlemeyer:**

I could see some individuals filing every 2 years, but that would solve the issue. Does anyone wish to get on the record in support of S.B. 293? In opposition? Neutral?

**Senator Brower:**

We appreciate the Committee hearing the bill; we do believe this is a no-brainer. It passed the Senate with a vote of 21 to 0 in 2009; its time has come. It is common sense. Thank you Senator Atkinson for the great questions. If the Committee has any further questions or improvements I would happily speak with you.

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**Senator Settlemeyer:**

I will close the hearing on S.B. 293 at this time. I adjourn this meeting at 4:52 p.m.

RESPECTFULLY SUBMITTED:

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Haley Johnson,  
Committee Secretary

APPROVED BY:

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Senator Patricia Farley, Chair

DATE: \_\_\_\_\_

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness or Agency</b>	<b>Description</b>
	A	1		Agenda
	B	4		Attendance Roster
S.B. 322	C	3	Sentor Becky Harris	Prepared Testimony
S.B. 403	D	3	Sentor Patricia Farley	Prepared Testimony
S.B. 274	E	1	Peter Hennessey	Written Testimony
S.B. 274	F	56	Janine Hansen	United States Constitution
S.B. 274	G	1	Janine Hansen	Letter from Chief Justice Warren E. Burger
S.B. 274	H	46	Guard the Constitution Project	The Article V Convention to Propose Constitutional Amendments: Contemporary Issues for Congress