

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

**Seventy-fifth Session
May 30, 2009**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Joyce Woodhouse at 8:03 a.m. on Saturday, May 30, 2009, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

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

GUEST LEGISLATORS PRESENT:

Assemblywoman Kathy McClain, Assembly District No. 15
Assemblyman Tick Segerblom, Assembly District No. 9

STAFF MEMBERS PRESENT:

Heidi Chlarson, Deputy Legislative Counsel
Kevin Powers, Senate Legal Counsel and Bill Drafting Advisor
Pepper Sturm, Committee Policy Analyst
Paul Townsend, Legislative Auditor
Karen Johansen, Committee Secretary

OTHERS PRESENT:

Barry Gold, Director of Government Relations, AARP Nevada
Matt Griffin, Deputy Secretary for Elections, Office of the Secretary of State
Janine Hansen, Nevada Eagle Forum

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CHAIR WOODHOUSE:

We will open the hearing on Assembly Bill (A.B.) 9.

[ASSEMBLY BILL 9](#): Creates the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs. (BDR 17-97)

ASSEMBLYWOMAN KATHY McCLAIN (Assembly District No. 15):

During the interim in 2008, we had a Legislative Commission's Subcommittee to Study Issues Relating to Senior Citizens and Veterans. Chair Joyce Woodhouse and Senator Warren B. Hardy II were on the Subcommittee. We studied many areas about senior citizens and found a five-meeting interim study barely touched the issues. The No. 1 request out of the interim study was to create a standing committee during the interim to deal with issues related to senior citizens and veterans. We decided to add special adult populations to the study because the standing committee on the disabled had sunset. It is not actually a study but a statutory committee that will meet during each interim. Many issues will come up, including long-term care, in-home care, elder abuse and veteran issues. I would appreciate your support.

BARRY GOLD (Director of Government Relations, AARP Nevada):

Issues involving older adults cross over several categories. They may involve health, commerce and judicial areas. An example is elder abuse. It is complex and can include legal aspects, trade practices and health, who needs to report elder abuse, who may need training, what are the penalties or protections, who investigates and is the abuse physical or financial?

Over the last interim, the Legislative Commission's Subcommittee to Study Issues Relating to Senior Citizens and Veterans allowed these subjects to receive the specialized attention they need and demand. Nevada has one of the fastest-growing senior populations, and these issues will need increasing attention. You can act proactively if you get ahead of the curve. Finding ways to address the needs of these special populations will enrich the lives of men and women who have served our Country, and our parents and grandparents who have worked hard. We now find many of them still need to continue working. A benefit of having a specialized group handling these complex issues is they can take the time to investigate resources and come up with cost-effective ideas and solutions.

They say a society is judged by how they treat their elders. Let us not fail our parents, our grandparents and those who have served our Country. These are all

people who believed in and took care of America. We need to take care of them. On behalf of American Association of Retired Persons Nevada and its 325,000 members across Nevada— grandmothers, grandfathers, moms, dads and veterans—we support A.B. 9 and urge this Committee to pass A.B. 9.

SENATOR WIENER MOVED TO DO PASS A.B. 9.

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WOODHOUSE:

We will move on to the work session and begin with A.B. 82.

[ASSEMBLY BILL 82 \(2nd Reprint\)](#): Makes various changes relating to elections.
(BDR 24-417)

PEPPER STURM (Committee Policy Analyst):

A work session document has been distributed for your benefit ([Exhibit C](#), original is on file in the Research Library). Assembly Bill 82 is the Office of the Secretary of State's election bill. The bill provides for electronic voter registration, establishes a system for electors to register with the Office of the Secretary of State electronically and attend training, and adds recruitment offices of the United States Armed Forces to the official voter registration agencies. A number of provisions the amendments address that were discussed during the hearing. The bill clarifies that unused money from a legal defense fund can only be returned to the contributor or donated to a tax-exempt charity; the bill provides and lists increased penalties for a person who tampers with a voting machine. The first amendment proposed is mock-up 5457 beginning on page 3 of the work session document, [Exhibit C](#). This deletes the requirements for electronic filing and expenditure reporting in multiple sections of the bill, thereby restoring these requirements to the process currently in place. It also deletes the provision of the bill relating to ballot advocacy groups. That is taken up in the second proposed amendment. Proposed Amendment 5457 also deletes the independent expenditure requirement, section 29.3, that established a reporting requirement for certain individuals who intend to make unsolicited expenditures related to an election. This proposed amendment also revises

section 1.3 regarding a person requesting ten voter registration applications. That has increased to 50 applications for the purposes of a voter registration drive. The second proposed amendment—mock-up 5369 on page 34 of [Exhibit C](#)—separates the ballot access groups from certain provisions in the measure affecting candidate campaign contributions and expenditure reports. Instead, such groups must report after reaching a \$1,000 threshold and contributions and expenditures that exceed \$100. Deadlines and processes for such reports are similar to those set for candidates.

The third proposed amendment by Senator Lee—mock-up 5333 on page 59 of [Exhibit C](#)—requires candidates who do not appear on an election ballot or elected officials who termed out of office to dispose of their unspent campaign contributions as prescribed by law. This requirement applies to such persons within four years of the qualifying event. The amendment authorizes another acceptable disposition to include donation to the State Distributive School Account or to a county school district fund.

We have proposed Amendment 5372 on page 62 of [Exhibit C](#) for Committee consideration. It is a lengthy mock-up that shifts the local elections for all charter cities and all cities incorporated under general law to the statewide election cycle, beginning with the 2012 elections. Applicable filing dates and other election-related deadlines are shifted accordingly.

Proposed amendments from the American Civil Liberties Union (ACLU) to delete sections 24, 25 and 28 of the bill increase criminal penalties for crimes surrounding election procedures. The ACLU amendment also deletes section 29.3 of the bill, requiring anyone making an unsolicited expenditure over \$100 on behalf of a candidate to register prior to the expenditure. Other deletions add ballot advocacy groups (BAG) to candidate and political action committee (PAC) reporting requirements for contributions and expenditures. This was separated out in the second amendment. The amendment deletes sections 34.2, 34.3 and 44.1 which require e-filings of required contribution and expenditure reports unless the person does not have access to appropriate technology. Janine Hansen proposed an amendment that all places where campaign reporting requirements require an affirmation “under penalty of perjury” must add an optional religious oath “so help me God” or other deity. A similar option is available to Legislators and certain executive and judicial officers under section 160 of chapter 282 of the *Nevada Revised Statutes* (NRS).

CHAIR WOODHOUSE:

Because we have so many amendments, is it possible to move through the amendments one by one and then add the amendments that pass to the main bill?

HEIDI CHLARSON (Deputy, Legislative Counsel):

Yes, it can be done that way.

CHAIR WOODHOUSE:

We will go to the first amendment.

MATT GRIFFIN (Deputy Secretary for Elections, Office of the Secretary of State):

The Office of the Secretary of State has no objections to these amendments. The Secretary of State proposed a measure on electronic filing, and the Assembly was to be affected in 2011. The Secretary of State is concerned about more important measures in the bill than this specific provision. Along with the deletion of electronic filings, the financial disclosure filing responsibilities will return to the Commission on Ethics. The time periods, deadlines, and extra reports will not change. With respect to the ballot advocacy group provisions, there is a mock-up with proposed Amendment 5369 done in conjunction with the Legislative Counsel Bureau. A legal concern was addressed by Ms. Chlarson. We strongly support Amendment 5369 to replace the language deleted by the BAG language. With respect to the independent expense requirement, a measure was put in the bill by the Secretary of State in response to issues that arose from testimony during the Seventy-fourth Session. Perhaps it was not understood from the way it was written or read. To not jeopardize the bill, we are happy to pull that provision out and deal with it the way we have during the campaign.

SENATOR RAGGIO:

If we process the bill, I suggest we use proposed Amendments 5457 and 5369.

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 82 WITH PROPOSED AMENDMENT 5457 AND AMENDMENT 5369.

SENATOR HARDY SECONDED THE MOTION.

SENATOR LEE:

The \$10,000, \$1,000 and now the \$1,000 to \$100 thresholds, are we going back to the original threshold?

MR. Griffin:

The existing threshold for BAGs is now \$10,000. Language has been changed in this bill because BAGs and PACs will be on the same reporting schedule. If we put separate thresholds between PACs and BAGs, they will be required to register and report twice. For the purpose of efficiency, and to prevent double reporting, we are putting them on the same threshold requirement. If I am organized to donate to a candidate and I also want to donate to a ballot question, I am therefore not required to come back to the Office of the Secretary of State, register the BAG and submit a separate filing requirement. If the thresholds are the same, it is going to be one report.

SENATOR LEE:

As a citizen, if I spend \$101 for advocating an initiative, am I recognized for that or do I need to donate \$1,000 to be recognized for the contribution?

MR. GRIFFIN:

When you donate \$1,000, you will be required to register and file a report. If you donate \$100 to a BAG, they will report your donation on their report. If it is less than \$1,000, the BAG will do the reporting; if it is more than \$1,000, you have formed a BAG and you must report.

SENATOR LEE:

Is that the way it is now?

MR. GRIFFIN:

From the Seventy-fourth Session, it was \$10,000 for BAGs. It has always been \$1,000 with a \$100 threshold for PACs. The rules are the same for donating to a candidate or a question.

THE MOTION PASSED. (SENATOR LEE VOTED NO. SENATOR CEGAVSKE ABSTAINED FROM THE VOTE.)

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CHAIR WOODHOUSE:

We will move on to the third proposed Amendment, mock-up 5333.

SENATOR LEE:

When a Senator is termed out after four years and chooses not to run for a seat within four years, there is a way they can keep the campaign contribution money, but they must turn the money in. Only donations up to \$10,000 of unspent contributions can be given to ballot advocacy groups. Additionally, if you want to take some of the unspent money rather than give it to the party or help another candidate pay off debt, the money can be donated to a school within your district by donations to the school band or track team.

SENATOR WIENER:

I have a great passion for the Advisory Counsel on Fitness and Wellness and the Youth Legislature. These organizations are not statutorily defined as tax-exempt organizations, but they are not-for-profit entities. They are affiliated with the government. I do not believe the amendment has a provision that allows me to donate to these groups. I would like to support them. Would that require language to allow me to donate to these two groups?

CHAIR WOODHOUSE:

Ms. Chlarson, would this language preclude Senator Wiener from these donations, or would we need additional language?

MS. CHLARSON:

There is no definition of a tax-exempt entity in statute. Whether statute allows for the donation depends on if the Office of the Secretary of State would recognize them as tax-exempt entities. We could add language to clarify what constitutes a non profit tax-exempt entity.

SENATOR WIENER:

There may be many worthy programs established in statute or a program through an agency that would benefit from our end of political life generosity.

MR. GRIFFIN:

I concur with Ms. Chlarson, there is no definition. We work off of a complaint system; nothing is done until a complaint is made. There is a strong legal argument to be made. By our authority to do an interpretation within the spirit of the statute as written, the organizations Senator Wiener discussed would fall

within tax-exempt, nonprofit organizations because there is no definition to preclude that. The intent is to prevent certain entities from receiving the money as opposed to delineating specific entities available to receive the money. The donations Senator Wiener proposes would be permissible as the language is written.

CHAIR WOODHOUSE:

Senator Lee, would you be willing to add Ms. Chlarson's suggestions for a further amendment?

SENATOR LEE:

Time is short. If it will not work now, I will work with her later. I know we can address this whether it is with this bill or next Session.

SENATOR WIENER:

I am fine with that because I will not be donating the money until I am gone. I can work with Senator Lee during the next Legislative Session.

MR. GRIFFIN:

I can assure the Committee that I will meet with Secretary of State Ross Miller and do our best to get an interpretation on this issue as soon as possible.

SENATOR RAGGIO:

I have some grave concerns. I was surprised and amazed to learn of the interpretation placed upon the language in statute. The clear intent was that anyone whose term ended—whether they were defeated at the polls, whether they collected money and did not run or whether they were term limited—was to distribute remaining contributions in accordance with these provisions. The interpretation indicated to me previously when we passed this statute is that if you receive another \$100, you are allowed to keep the money forever; this is clearly against legislative intent. When I found out people are retaining campaign contributions long after they leave office, whether they were defeated or did not run, astounded me. That was never the intent. This language is different, and the Assembly has rejected that "out of hand." It sounds to me as though people are intending to keep contributions long after it was intended they could do so. My problem is that this does not go far enough. It still allows them to keep the contributions for four years. I request we put the language back in that we added when we processed Senate Bill (S.B.) 210. Our constituents understood this is what we would do with funding—and that was within two and one-half

months after your term ended. I am still agitated by people who have misused their campaign contributions. I would not support this amendment unless we go back and adopt the amendment our Committee put in S.B. 210 requiring the money be distributed in this way and not retained for personal or campaign purposes. I will not support the bill unless that amendment is in here and the Assembly agrees with it.

[SENATE BILL 210 \(1st Reprint\)](#): Makes various changes to the provisions governing the disposition and reporting of campaign contributions.
(BDR 24-582)

SENATOR LEE:

I understand. We worked very hard on this. If I can get this amendment now, I have completed half of my goal. Senator Raggio, you and I will be back next Session and we can work together closely. I am willing to work again to accomplish that, but I would like to get this amendment passed now. I have no desire to make this amendment part of a process that will kill the Secretary of State's bill vote.

SENATOR MATHEWS:

I have some of the same concerns as Senator Raggio. Four years is too long for me to hold on to the money. The letters and checks I receive include requests to be notified where the money goes when I dispose of it. People were under the impression it would be disposed of within six months after I left office. Those checks come to help me with my campaign. The money was not intended to give to anyone in the State. A number of the checks came with those requests. I do not know what a reasonable amount of time is, but four years is too long to hold on to money intended for your reelection or use while you were in office. I will not support an amendment that allows for that length of time. I do not like things you have to come back and fix. We are here now. Fix it. This is not a fixable amendment.

SENATOR LEE:

If four years is an issue, that was between somebody terming out in one elected position and wanting to run for another position available in four years. I would pull out the four-year part of the amendment and keep the Distributive School Account Amendment.

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SENATOR HARDY:

I am sensitive to not killing the Secretary of State's bill. We can go to conference committee and explain why we feel so strongly and make adjustments if necessary. I tend to agree with Senator Mathews and Senator Raggio.

CHAIR WOODHOUSE:

Senator Raggio, Senator Mathews and Senator Hardy are saying they would prefer the language in S.B. 210, then go to the Assembly and work with them.

SENATOR LEE:

I will defer to the Committee if that is their choice.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 82 WITH PROPOSED AMENDMENT 5333, SUBSTITUTING
LANGUAGE FROM S.B. 210.

SENATOR RAGGIO SECONDED THE MOTION.

Ms. CHLARSON:

I want to clarify, the motion only relates to NRS 294A.160. The amendment in S.B. 210 had other sections of NRS.

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

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CHAIR WOODHOUSE:

We will move on to the fourth amendment. Mock-up proposed Amendment 5372 shifts local elections for all charter cities and all cities incorporated under general law to the statewide elections. It is on page 62 of your work session document, [Exhibit C](#).

ASSEMBLYMAN TICK SEGERBLOM (Assembly District No. 9):

This amendment would require the remaining cities that have their municipal elections in the off years to switch to even years, such as Reno, Sparks and Carson City. The elections scheduled for 2011 would now be in 2012, and they

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would have the same primary and general election. The Governor has signed the change for the primary election so it would be in June and November.

We just went through our local elections in southern Nevada, and the turnout has been absolutely abysmal. It is a crime to have 10 percent of the people determining who is going to be the mayor and sit on the city council. People are sick and tired of continual elections.

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 82 WITH PROPOSED AMENDMENT 5372.

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

CHAIR WOODHOUSE:

The next list of proposed amendments is from the ACLU.

SENATOR LEE:

The criminal penalties are exorbitant. I would like to make a motion to return to the existing penalties and watch it for another session to see if we have any problems.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 82 BY DELETING SECTIONS 24 THROUGH 28.

SENATOR RAGGIO SECONDED THE MOTION.

MR. GRIFFIN:

The Secretary of State would adamantly oppose the motion. The current penalties, as they are written, leave it as a gross misdemeanor. A gross misdemeanor does not follow you wherever you go or give the county clerks a hook to enforce statute.

SENATOR RAGGIO:

That is a year in jail.

MR. GRIFFIN:

Correct, the categories would not have jail time associated, but it would attach to their record. Should they go to another state and volunteer for another organization, those people would be aware of what they tried to do in Nevada. Each provision was put in because of a specific incident. Phone calls were made to Hispanic voters telling them tomorrow is Election Day, and we were a month away from the election. Those scenarios happened before, leading up to an election and on Election Day. Our opinion, with respect to the Association of Community Organizations for Reform Now matter, is the Office of the Secretary of State did the investigation and the Attorney General followed through with the prosecution. There must be a deterrent. People need to be aware that if you do this in the polling location, there will be a felony attached because the damage is done. Voter confidence is already eroded.

SENATOR RAGGIO:

I withdraw my second to the motion.

SENATOR LEE:

What is the minimum felony that would apply to what you want to do?

MR. GRIFFIN:

Category B is in the bill, and that is the separate crime we created for the manipulation of the election with the intent to alter the results. That stands alone as a heinous crime. From the Secretary of State's standpoint, Category C could be reduced to a Category D felony. We would not have a problem with that because we would still have that felony record. We want to have jail time, but it is more a function of attaching a record that follows a person. If they go to another state, we know what they are doing. The Category B felony is different because if you are intending to alter the election, for example through software, that cannot be undone. Currently, we have a one-to-four year felony for these people. We do not want the Federal Bureau of Investigation to decline or not take up prosecution. We want to say, you are going to have 20 years in a Nevada State Prison if you alter an election in the State of Nevada. We would amend the bill to reduce a Category C to a Category D felony, and there is one Category E felony that will remain a Category E. Section 24 involving intimidation in the registration of voters is currently a Category E felony. Section 25 dealing with interference at the polling place is changed to a Category C, that we would amend to a Category D felony. Section 26 is when a person removes or destroys any supplies or equipment in a polling location

during an election; that Category D would remain as a Category D felony. Section 27 with the removal of voting equipment or computer programs used to count ballots was amended to a Category D felony. We have no objection leaving it as a Category D.

SENATOR RAGGIO:
Which is the one you want to retain?

MR. GRIFFIN:
Section 27, section 2 is a Category B felony for altering results with software. Section 28 is anyone who intentionally fails to submit to the county clerk a completed registration application based upon the elector's political party affiliation. We have changed that from a Category E felony to a Category C. With the Committee's approval, I would request that be a Category D felony. Those are all of the criminal provisions.

CHAIR WOODHOUSE:
Section 28 would be amended to a Category D.

SENATOR LEE:
I withdraw the previous motion on A.B. 82.

SENATOR RAGGIO MOVED TO AMEND AND TO DO PASS AS AMENDED A.B. 82 BY CHANGING THE PENALTIES IN SECTIONS 25, 27, 28.

SENATOR LEE SECONDED THE MOTION.

SENATOR HARDY:
I will support that. There is nothing more fundamental to our system of government than elections. It should be capital punishment if you alter an election. I fully support these changes. We had alleged incidents in the last election, and the Office of the Secretary of State and the Attorney General's Office took the appropriate action. We need to provide them with the tools to assure the people of this State they can count on the product of their elections.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WOODHOUSE:

The last amendment was proposed by Janine Hansen and is on page 128 of the work session document, [Exhibit C](#).

SENATOR RAGGIO:

Presently, an affirmation is done under penalty of perjury. If we substitute and give them an option to say "so help me God," are you subject to perjury? I have no objection, but it must have the same penalty as if it is under penalty of perjury. I will support this if the same penalty applies. If the language can be written so they can use that or a similar option but still be subject to perjury then I will support it. Mrs. Hansen, do you understand that?

JANINE HANSEN (Nevada Eagle Forum):
Yes, I do.

SENATOR RAGGIO:

As long as it is an affirmation using available language people want to use and is subject to penalties of perjury, I will support it.

MR. GRIFFIN:

The Office of the Secretary of State shares the same view as Senator Raggio.

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 82 WITH JANINE HANSEN'S PROPOSED AMENDMENT.

SENATOR MATHEWS SECONDED THE MOTION.

KEVIN POWERS (Senate Legal Counsel and Bill Drafting Advisor):

We will follow through with Senator Raggio's request for the statute in that form if the way the oaths are currently structured, a penalty attaches regardless of whether it is an affirmation under God or under penalty of perjury. If we need to add additional language to ensure that a penalty attaches to a violation of the oath, then we will proceed in that manner.

THE MOTION PASSED UNANIMOUSLY.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 82.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WOODHOUSE:
We will move on to S.B. 316.

[SENATE BILL 316](#): Directs the Legislative Commission to provide for a study concerning the establishment of a health insurance exchange in Nevada. (BDR S-1108)

MR. STURM:

Senate Bill 316 requires the Legislative Commission to provide for a staff study concerning the establishment of a health insurance exchange in Nevada. These exchanges provide a clearing house for approved health insurance that collects and consolidates insurance premiums from individuals and employers, and forwards the payments to insurance companies. The measure sets forth the scope of the study to include an evaluation of the costs and benefits of such a structure, loss ratio requirements for listed health plans, eligibility criteria for participants and other related matters. Amendment 5440 proposed by Chair Woodhouse is on page 130 of your work session document, [Exhibit C](#). It deletes the requirement in the bill for a staff study and instead directs the Legislative Committee on Health Care, as part of its work program, to consider studying the establishment of a health insurance exchange that provides information for health options. The language lifted from the original bill limits it to the conceptual thoughts associated with such a plan. It does not go into loss ratio and technical matters.

CHAIR WOODHOUSE:

I spoke with Senator Allison Copening, and S.B. 316 was on our list of staff studies. We cut Legislative Counsel Bureau staff and their funding. It would be impossible to deal with this issue, but we would like to get started. The health insurance exchange covers a huge undertaking that will not happen over a

two-year period. This is a stepping stone to get started, and I would appreciate your support on this amendment.

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 316.

SENATOR LEE SECONDED THE MOTION.

SENATOR WIENER:

With tight budgets and the demands on legislative staff, this may need a subcommittee within the Legislative Committee on Health Care during the interim. Because we are not doing staff studies to the extent we have, is there a chance I could be on this committee? Is there any thought to subcommittee structures within the interim committees to ensure pivotal issues get the attention they need?

CHAIR WOODHOUSE:

I think that is a possibility. Senator Cegavske, would you like to add that to the amendment?

SENATOR CEGAVSKE:

It is the decision of whoever chairs the committee. We set a recommendation and they can choose to ignore it.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WOODHOUSE:

We will move on to Senate Concurrent Resolution (S.C.R.) 26 on page 132 of the work session document, [Exhibit C](#).

SENATE CONCURRENT RESOLUTION 26: Provides for an interim study on employee misclassifications. (BDR R-1297)

Mr. Sturm:

Senate Concurrent Resolution 26 directs the Legislative Commission to appoint a subcommittee to conduct an interim study concerning employee misclassifications. The misclassification question arises when workers are

improperly classified as independent contractors when they should be legally classified as employees. Testimony indicated this could affect numerous employment labor and tax laws. Subcommittees are charged with determining the scope of the problem, along with making a determination concerning the economic losses for employees and lost revenues for State and federal government. The subcommittee also must make recommendations concerning identifying misclassifications, possible penalties and legal recourse.

The five-member subcommittee shall consist of two Legislators, one from each House, as well as a representative of management, a representative of labor and a member of the general public. The results of the study and any recommendations for legislation are to be submitted for consideration to the 2011 Legislative Session.

This is one of the three studies approved by leadership for the interim period. We have four amendments. The proposed amendments are on page 132 in your work session document, [Exhibit C](#).

SENATOR HARDY:

I will disclose for public information that I am the President of the Associated Builders and Contractors, Las Vegas Chapter. I have spoken with legal counsel and they have indicated because this is a study, it will not benefit anyone one way or the other. I have the green light to speak on this. I indicated we should have a representative of the union sector of the industry and from the nonunion sector of the industry. The nonunion sector of the industry represents about 75 percent to 80 percent of the industry. This is a problem because members of the industry do not have a classification system they can count on at any level. This will be helpful. I would like to ensure there is a representative of union labor from the construction industry and also a representative of the nonunion sector. That person could be management if it helps with the number issue. It is important that 75 percent to 80 percent of the industry is represented in the study.

CHAIR WOODHOUSE:

One of the concerns of moving to seven people on the committee is keeping equity between management and labor. The Majority Leader would prefer a five-member committee. An additional person from the general public would make it a seven-member committee.

SENATOR HARDY:

The representative from the union is likely to be from the labor side which is appropriate. If we wanted to keep the committee at five, we could indicate the representative of management from the construction industry be the nonunion representative. That would keep it at five.

CHAIR WOODHOUSE:

Referring to page 134 of the work session document, [Exhibit C](#), would you say one representative of management who works in the nonunion construction industry, one representative of union labor from the construction industry and one representative from the general public?

SENATOR CEGAVSKE MOVED TO AMEND AND ADOPT AS AMENDED S.C.R. 26 WITH PROPOSED AMENDMENT 5431, ADDING A NONUNION MEMBER IN LINE 5 AND THE CHAIR AND VICE CHAIR BE LEGISLATORS IN LINES 2 AND 3.

SENATOR HARDY SECONDED THE MOTION

THE MOTION PASSED UNANIMOUSLY

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CHAIR WOODHOUSE:

We will move on to A.B. 190.

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

MR. STURM:

Assembly Bill 190 requires the Audit Division of the Legislative Counsel Bureau to conduct a staff study of the fiscal costs of the death penalty in Nevada. The study must examine the costs of adjudicating capital cases as opposed to noncapital cases and must include the costs to the State and to local governments at each stage of a capital murder case proceeding. The Legislative Auditor shall submit a written report of his findings to the Director of the Legislative Counsel Bureau on or before January 31, 2011. There were no amendments proposed for this measure.

CHAIR WOODHOUSE:

Assembly Bill 190 was on our list as a staff study. We have cut staff and resources, but there is interest in this measure. We have asked Paul Townsend to testify.

PAUL TOWNSEND (Legislative Auditor):

As Legislative Counsel Bureau staff, I am neutral on A.B. 190 but have provided a handout indicating our workload (Exhibit D). The first page shows proposed audits for calendar years 2009 and 2010 with a listing of the audits approved by the Legislative Commission last fall. The following two pages list the various bills that include a requirement for the Audit Division to do an audit or a study. I would like to clarify that S.B. 12 and A.B. 103 have been approved by the Governor. They were an extension of responsibilities that passed during 2007. They do not result in any unexpected delays in any of our scheduled audits. However, depending on the number of bills that pass, it would delay some of the scheduled audits on the first page. I would note, we do place a priority on audit requirements put in legislation. Those come first and will bump some of the audits on the first page. I have spoken with Assemblyman Bernie Anderson throughout the Seventy-fifth Legislative Session regarding A.B. 190, and we have the capability and technical expertise to perform this study. We are willing to do whatever you decide. Our main goal is to provide you with the best service possible.

SENATE BILL 12: Revises provisions governing the Commission on Educational Excellence. (BDR 34-299)

ASSEMBLY BILL 103: Provides for the audit, inspection, review and survey of certain facilities for children. (BDR 17-102)

SENATOR LEE MOVED TO DO PASS A.B. 190.

SENATOR WIENER SECONDED THE MOTION.

SENATOR MATHEWS:

Is the length of stay part of the cost on death row?

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MR. TOWNSEND:

We are primarily looking at the fiscal cost, capital cases and noncapital cases, to process local law enforcement, public defenders, prosecutors and the Department of Corrections.

SENATOR MATHEWS:

Do you already have this information available?

MR. TOWNSEND:

Not necessarily, it involves compilation from many different entities throughout the State.

SENATOR RAGGIO:

I am going to vote no. I have been a prosecutor and have dealt with these cases. I know of several cases in my own career where offenders did not kill somebody because of the threat of the death penalty. This study is a forerunner to doing away with capital punishment. What does studying the cost of this have to do with justifying the death penalty? The death penalty is addressed in the United States Constitution. I am not going to stand in the way; however, I believe the death penalty is appropriate in some cases. I will vote no.

SENATOR MATHEWS:

We are tight on money and tight on resources for studies. This information is already out there and easy to access with technology. The money could be spent some place else. I had not linked this study with doing away with the death penalty.

SENATOR HARDY:

This study is difficult for me because I agree with everything Senator Raggio said. However, I have immense respect for Judge Stephen Dahl and do not question his motives for the study. I do not think it is to do away with the death penalty. I am going to vote to oppose it. Senator Raggio's interpretation is correct. But for Judge Dahl's involvement, I would not have any inclination to support the study.

SENATOR CEGAVSKE:

I will be opposing A.B. 190.

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SENATOR LEE:

I do not want to see this bill die. I will remove my motion and talk to Judge Dahl in the interim to get an idea of what he would like to accomplish. I am sympathetic to Senator Raggio's attitude, and I believe in the death penalty. I would like to remove my motion on A.B. 190 and table the study.

CHAIR WOODHOUSE:

Does Senator Wiener agree?

SENATOR WIENER:

Yes, I agree to withdraw the second on A.B. 190.

CHAIR WOODHOUSE:

Senators Lee and Wiener have withdrawn their motions; therefore, we will move on to A.B. 494.

ASSEMBLY BILL 494: Requires the Legislative Commission to provide for a study conducted by the staff of the Legislative Counsel Bureau of the major expenditures of local governments in this State. (BDR S-1162)

MR. STURM:

Assembly Bill 494 requires the Legislative Commission to provide for a staff study concerning the major expenditures of local governments. Each local government in the State is required to report its three largest categories of expenditure for the 2008-2009 fiscal year to the Legislative Commission. Staff of the Legislative Counsel Bureau is required to compile and present the information to the Legislative Commission for transmission to the Seventy-sixth Session of the Legislature in order that the Legislature may consider consolidating services provided by local governments. Proposed Amendment 5388 for Committee consideration begins on page 136 of your work session document, Exhibit C.

CHAIR WOODHOUSE:

I was approached by representatives from Washoe County who asked if we could amend A.B. 494 in this manner.

SENATOR RAGGIO:

I am enthusiastic about A.B. 494 and the amendment. I go back to times when there was separation between local governments in both Clark County and Washoe County. There was open space between Reno and Sparks and in the Las Vegas area. Now these are large metropolitan areas. For years, going back to my time as a District Attorney, we were advocating consolidation—not giving up the identity of the cities but consolidating the major functions of planning groups and law enforcement. Large savings could be realized by consolidation efforts of major functions of these entities. This is long overdue. I hope if we pass this, local governments that have great responsibility could come forward with major recommendations for consolidation efforts in many areas of their operations.

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED A.B. 494 WITH PROPOSED AMENDMENT 5388.

SENATOR HARDY SECONDED THE MOTION.

SENATOR LEE:

I understand this is a study. Why are we spending State money when we have cities and counties with elected people who understand the issue?

CHAIR WOODHOUSE:

The amendment is for the cities and counties to do the study, and the State will receive their report.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR WOODHOUSE:

We will move on to Assembly Concurrent Resolution (A.C.R.) 30.

[ASSEMBLY CONCURRENT RESOLUTION 30 \(1st Reprint\)](#): Directs the Legislative Commission to conduct an interim study on the development and promotion of logistics and distribution centers in this State. (BDR R-1305)

MR. STURM:

Assembly Concurrent Resolution 30 directs the Legislative Commission to appoint a subcommittee to conduct an interim study concerning the development and promotion of Nevada as a logistics and distribution center. The study is to include, among other considerations, the identification of barriers to the development of logistics and distribution systems; the delineation of future trade zones and so forth. The first proposed Amendment 5438 includes authorizing language that expands the scope of the study to include a broad range of transportation and infrastructure. Speaker Barbara Buckley had two proposed amendments on page 139 in the work session document, [Exhibit C](#).

SENATOR CEGAVSKE MOVED TO AMEND AND ADOPT AS AMENDED A.C.R. 30 WITH PROPOSED AMENDMENT 5438 AND SPEAKER BUCKLEY'S TWO PROPOSED AMENDMENTS.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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SENATOR CEGAVSKE:

I apologize for not being here at the beginning of the discussion on A.B. 82. Can staff clarify the online registration? It said driver's license and then it said other identification. I wanted the identification on the record. Mr. Griffin said it must be a Nevada driver's license or a Nevada identification card issued by the Department of Motor Vehicles to complete it online.

CHAIR WOODHOUSE:

We did not discuss that this morning.

MR. POWERS:

I will need to consult with Ms. Chlarson about this issue. I will speak to Senator Cegavske after the hearing when I have further clarification.

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SENATOR CEGAVSKE:

I would like to make this part of the record when it comes on the Senate Floor.

CHAIR WOODHOUSE:

Seeing no further discussion, the meeting is adjourned at 9:23 a.m.

RESPECTFULLY SUBMITTED:

Karen Johansen,
Committee Secretary

APPROVED BY:

Senator Joyce Woodhouse, Chair

DATE: _____