

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON ELECTIONS, PROCEDURES, ETHICS, AND  
CONSTITUTIONAL AMENDMENTS**

**Seventy-Third Session  
March 1, 2005**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order at 3:54 p.m., on Tuesday, March 1, 2005. Co-Chairman Harry Mortenson presided in Room 3142 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Mrs. Ellen Koivisto, Co-Chairwoman  
Mr. Harry Mortenson, Co-Chairman  
Mr. Marcus Conklin, Co-Vice Chairman  
Mr. Bob McCleary, Co-Vice Chairman  
Mrs. Sharron Angle  
Mr. Mo Denis  
Mrs. Heidi S. Gansert  
Ms. Chris Giunchigliani  
Mr. Brooks Holcomb  
Ms. Kathy McClain  
Mr. Harvey J. Munford  
Mr. Bob Seale  
Mr. Scott Sibley

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Michelle Van Geel, Committee Policy Analyst  
Jasmine Shackley, Committee Manager

Sheila Sease, Personal Attaché to Assemblyman Mortenson  
Celeste Gunther, Committee Attaché  
Kasey Sheldon, Committee Assistant

**OTHERS PRESENT:**

Dan Klaich, Vice Chancellor for Legal Affairs, University and Community College System of Nevada  
Jim Richardson, Legislative Advocate, representing the Nevada Faculty Alliance  
Janine Hansen, past Northern Nevada Director, Nevadans for Sound Government; and, President, Nevada Eagle Forum  
Lynn Chapman, Vice President, Nevada Eagle Forum

**Co-Chairman Mortenson:**

[Called meeting to order. Roll called. Instructed Committee members and audience.] We will open the meeting with item A.J.R. 11 of the 72nd Session ([Exhibit B](#)).

**Assembly Joint Resolution 11 of the 72nd Session: Proposes to amend Nevada Constitution to provide for election of certain members and gubernatorial appointment of certain members of Board of Regents, and to specify number and terms of members. (BDR C-18)**

**Assemblywoman Chris Giunchigliani, Assembly District No. 9, Clark County (part):**

A.J.R. 11 is a return piece of legislation. Because it is a constitutional amendment, the Committee will take it up again this session ([Exhibit C](#)). I speak today in support of the bill because of my concern that the UCCSN [University and Community College System of Nevada] Board of Regents requires a serious reconfiguration. That reconfiguration needs to be done as a cooperative effort between us—the Legislature, and the voters in 2006. In order for voters to have an opportunity to vote, this Body, and both Houses must act affirmatively to provide them the opportunity to have a vote on the construction or reconfiguration of the UCCSN. We should allow the public a voice and a choice in determining what the Board of Regents should look like. Giving the public a voice begins with this Committee, and that is why I'm asking for your support and passage of this legislation.

[Assemblywoman Giunchigliani, continued.] Currently, the Board of Regents is comprised of 13 members. Some regents maintained, as their testimony last session noted, that they need 13 members to facilitate their many committee assignments in the governance of a board that oversees 98,000 Nevadans enrolled in Nevada's eight institutions of higher learning. Other boards, though, are able to manage committees even though they are smaller. Unlike school board members, the regents also have accounts which allow for individual fax machines, unlimited travel, cell phones, and they all have a host expense account, which is subsidized by the taxpayer.

I actually requested this bill a year prior to last session because of all the complaints from the public about the lack of coordination and the infighting that was going on between the regents. A year later I wound up working for them, which was somewhat awkward, to say the least. But I still felt very strongly that the legislation needed to move forward, to move us to an appointed board, since Nevada has the only group of regents that are not appointed.

University higher education is a hodgepodge; there isn't consistency in boards of regents and their governance structure. But Nevada was the only state that had a board that was elected versus being appointed. After compromise and discussion, we made this into a dual-purpose bill: to reduce the size of the board, and consider the fact that some people wanted members to be elected and some wanted them to be appointed. This then became 6 appointed members and 3 would run from congressional size districts, to be elected by the public. So you had a mix of individuals who would serve on the board. That is what this Body approved. In addition to that, they are one of the few boards that have a 6-year term, and we recommended that it be changed to a 4-year term, which seems to be more standard. United States Senators are the only elected officials we could find that had a likeness in the terms.

I had two bills last session: the bill for the constitutional amendment and one that reduced the size of the board to 7 members. We wound up making it 9, in this House, left them elected, and changed the terms to 4 years. Both bills passed the Assembly, but in working with the Senate majority leader, he wanted the constitutional amendment to go forward so that the public had the right to vote on it and chose not to process the second piece of legislation that we had passed out of this House.

The arguments that were made were somewhat nebulous: "We can't have committees meet, and it would restrict how many committee people, and when we go back East for different meetings...", and things along those lines. If you look at the State Board of Education, they manage over 400,000 students,

compared to 98,000. And they only have 9 members. If you look at our local school boards, they have between 5 and 7 members, depending on the size of their districts. They don't seem to be inherently infighting and violating the Open Meeting Law, and a variety of other things that have occurred again in this last year. So, I think it's time. What we have is broken and it's time to fix it. The passage of A.J.R. 11 of the 72nd Session would allow the voters to have an opportunity to speak. They can either vote it up or down. But if they feel that's the right way to go, with a smaller board, shorter terms, and a blended opportunity [composition], then that should be their right.

[Assemblywoman Giunchigliani, continued.] In my original constitutional amendment, I outlined what the Governor had to choose from, for appointment purposes. As Carole Vilardo correctly pointed out, that doesn't really belong in the *Nevada Constitution*, that should be in statute. So I requested in a separate piece of legislation that:

The Governor shall give consideration to appointing members who represent urban and rural areas of the state; women, ethnic, and racial minorities; not more than four board members that are appointed may be members of the same party; that written nominations could be solicited from the Governor, and, at a minimum, from the student body presidents, licensed personnel in education, parents organizations, organizations representing women and minorities, UCCSN faculty, public accountants and business organizations; and that the Governor had to select from nominations that were received.

I don't know if some of the business groups are here today, but I did hear from several in Clark County who were very interested and supported the issue of the Governor appointing the individuals that are recommended in this piece of legislation. It's a very simple bill, but it's a public policy.

**Assemblyman Munford:**

How would you select those appointed members? You said you would try to get a good cross section of the population, where you get minority people, business people? Anybody can say, "I volunteer to be on the Board of Regents," what do I have to do? Are there other criteria that can maybe make that group a little bit more qualified, a little more distinguished, with a little background in some areas?

**Assemblywoman Giunchigliani:**

Anything that this Body chooses to do. That's why I mentioned it, because that'll be in another bill that will come before this Committee for consideration. If A.J.R. 11 of the 72nd Session moves forward, then it's appropriate to put those safeguards into statute, which can then be changed and modified depending on how the Legislature feels. In most states, anybody can volunteer to be nominated, but you want a broad spectrum of individuals.

What I looked at from other states, they have student representatives make the recommendations, as well as faculty, business organizations, and CPAs, because you want at least one person serving on the board that has some background in accounting, auditing, and budgeting. But you also want a blended rural/urban background, and you want ethnic representation as well. So that's what I am suggesting, and I have in Drafting. It's not appropriate, from what I've been told, to put that into the constitutional amendment, because it's too specific and we shouldn't tamper with that any more than we do.

The only reason this is a constitutional amendment is because that one phrase is in the *Nevada Constitution*, and that's where it has to be changed. I will remind the Body that, truly, in the *Nevada Constitution*, the only authority that the regents have is over the 2 four-year institutions, the universities, not the community colleges, because the community colleges were created by statute, not by constitution. So technically, we gave them the ability to do it, but they don't really have the authority over the colleges, if we wanted to make that change. But that's for another day and another debate.

**Assemblyman Denis:**

What about the argument that we got from Daniel Klaich [Letter from Interim Chancellor James Rogers, page 3 of [Exhibit D](#)] that the number of elected members is based on congressional districts, and as we continue to grow, then the make-up would be more elected than appointed. Does that have a bearing at all? It could at some point become all elected again.

**Assemblywoman Giunchigliani:**

We would all be gone by the time that happened. I did make that provision, very properly. That was pointed out by one of the former members of this Committee, who said, while our population increases, South Dakota's and Wyoming's populations are going down. We will probably pick up another congressional seat within the next five to ten years. What we did is offset, so it'll be somewhat more balanced. It would go to a fourth seat, if you go to 5 appointed and 4 elected then at that point. The balance is there, in the long

run, to allow for those who believe in the elected process, and those who believe in an appointed process, to still maintain an equalizer.

**Assemblyman Denis:**

Right now they're at 11 members, is that correct?

**Assemblywoman Giunchigliani:**

Thirteen.

**Assemblyman Denis:**

What about the argument that they needed more members in order to do the subcommittee meetings?

**Assemblywoman Giunchigliani:**

If the Clark County School Board, with 7 members, can do more with 200,000 students versus 33,000 down south, then I think that you can make anything work if you choose to. I don't mean this in a disparaging way, but size does make a difference in working together to make sure that you're dealing with policy. General Billy McCoy USAF (Ret), says that any group larger than six is a cause for disaster. You need a smaller group for cohesiveness, to be able to do your arguments, do your debates, but it's less unwieldy and less political. The board will always be involved in politics, no matter what, regardless if it's appointed or elected. But it's trying to get it to a manageable system so that we're looking out for what's best for the students.

**Assemblyman Denis:**

Do you think that 9 is a good number, versus less?

**Assemblywoman Giunchigliani:**

I still felt 7 was appropriate, but I do negotiate, and we compromised at 9. Mr. McCleary and Mr. Conklin helped with trying to resolve it. We had a lot of different people in different places on what the size should be. Nine is manageable; it deals with the growth.

**Assemblyman Denis:**

So then as the make-up changes with growth in the state, based on your proposal, the statute would be changed to decide who is not going to be appointed, is that how that would work?

**Assemblywoman Giunchigliani:**

Correct.

**Assemblyman Seale:**

For those of us who weren't here in the last session, obviously it passed both Houses, with what kind of margins?

**Assemblywoman Giunchigliani:**

Twenty-six yes, 16 no in the Assembly; 11 yes, 10 no in the Senate. It was the Republicans that passed my bill; it was a totally partisan vote. I don't know what else was going on with that at the time.

**Dan Klaich, Vice Chancellor for Legal Affairs, University and Community College System of Nevada:**

In my letter, I misidentified Dr. Jill Derby ([Exhibit D](#)). She is Vice Chancellor of the University System, not the Vice Chairman of the Board of Regents.

I am here to speak against A.J.R. 11 of the 72nd Session. The comments that I have for the Committee today, as Assemblyman Denis pointed out, are comments by Interim Chancellor Rogers (page 2 of [Exhibit D](#)), and points made by Vice Chair Derby (page 4 of [Exhibit D](#)).

We believe that there is very little more important to the people of the state of Nevada than education, from K-12 through higher education. It is extremely important to allow the people of the state of Nevada to vote for those who govern their systems of education throughout the state. That is the primary reason we are here speaking against the bill, with respect to some of the points brought up by Assemblywoman Giunchigliani. I can provide a copy of this material on term-of-office and size of the board which is gleaned from a 50 state summary that we have done on other higher education coordinating boards. [Co-Chairman Mortenson accepted his offer to provide copies of the board's research on other states' policies. [Exhibit E](#)]

The typical size of those boards is about 12 members. The typical term is around 6 years. We think that the term of 6 years is appropriate to allow continuity in the governance procedures. We think that would apply regardless of whether the board was appointed or elected. We think that continuity is important. We think that the size of the board is important. I don't know that there is a magical number of board members. Certainly it's difficult to disagree with the Assemblywoman when she talks about collegiality in the context of numbers.

Primarily I am here to enter the chancellor and vice chair's comments into the record. We believe that in the last year, the board has come a long way in

restoring its collegiality, its cordiality, and its professionalism. We would encourage you not to react in a way that deprives the people in the state of Nevada of the right to elect their regents for higher education.

**Assemblyman Conklin:**

I'm sure you've read this bill, we have not taken away the public's right to vote for people to serve on the Board of Regents. As far as I understand it, according to the *United States Constitution*, we have maintained a "one person, one vote" with representation from every corner of this state. All we've done is to diversify the board. I'm curious if you have a comment related to that, because you've indicated that we're taking away someone's right to vote for regents, and, actually, this bill doesn't do that.

**Dan Klaich:**

This bill creates a board, the majority of which is appointed. Of the 9 members of this board, we have 6 appointed members and 3 elected members from the congressional districts of the state. Which as you rightly point out, does represent every corner of this state. In fact, the vast-voting majority of this board would not be answering to the public.

**Assemblyman Conklin:**

Who's going to appoint the remaining members?

**Dan Klaich:**

I believe that in the bill—as drafted and as explained by Assemblywoman Giunchigliani with the interpreting statute—the Governor would appoint the remaining 6, under the criteria that were discussed by Ms. Giunchigliani.

**Assemblyman Conklin:**

That's correct. And the Governor is elected by all the people of this state as well.

**Co-Chairwoman Koivisto:**

I'm interested in the host accounts of the regents. How much does that cost the taxpayers? Do each of the 13 regents have a host account?

**Dan Klaich:**

The answer to your second question, Mrs. Koivisto, is, yes they do. I believe each of the members of the Board of Regents has a host account of \$5,000. I do not believe that any of those host accounts are from state appropriated funds. I will provide the exact information to the Committee ([Exhibit F](#)).



**Assemblyman Holcomb:**

Assemblywoman Giunchigliani brought up the point that the State Board of Education manages a greater number of students with fewer board members, and you have 9 members managing fewer students. How would you respond to her observation?

**Dan Klaich:**

I would respond by saying that Ms. Giunchigliani has testified to a significant reality. I served on the Board of Regents for 14 years, when it was significantly smaller in size. We managed to get the work done. It just means that fewer people will work harder, and that those people who wish to be on the Board will have to work harder, or leave. I'm not here to tell you, if in the wisdom of this Committee, you reduce the size of the Board from 13 to 9 that we'll fold our tent and go home. You all work hard, the Board works hard, there is no magic in any number. This is service to the state of Nevada, and some people will have to work harder if that's the wisdom of this Committee and the voters of the state of Nevada.

**Jim Richardson, Legislative Advocate, representing Nevada Faculty Alliance:**

The Nevada Faculty Alliance, whom I represent, has not taken an official position on the bill. We certainly observed with great interest the problems the Board of Regents has had. We do concur with the fact that within the last year for some reason they seem to be getting along better. But that aside, I want to enter into the record the same kind of comments I made last session. And I would be responding, in a sense, to the question that came from Assemblyman Munford.

I'm delighted that Assemblywoman Giunchigliani is talking about a trailer bill that would implement this, if you see fit to pass it. Because that's where our concerns lie. We would like to see a bill that talks about criteria for people who would serve on the Board of Regents of our system of higher education. We do think there should be some minimal qualifications. In the document that Vice Chancellor Klaich gave you ([Exhibit D](#)), there's a brief comment to this effect from Interim Chancellor Rogers about a process somewhat analogous to the judicial selection process that we currently have when a vacancy occurs in a judgeship.

If you pass this bill and then you have to deal with the trailer legislation to implement it, I would recommend that you consider using that legislation as a model, and set up a group of people where various constituencies are represented, in screening candidates. Anyone could apply, meeting certain minimal criteria that you would establish, and we might talk about that at some

point, but then they would be screened by a committee of people with representation from various constituencies. In that regard, you might not be terribly surprised if I suggested that the faculty would be delighted to participate in such a screening process. I also think the students should be represented, the business community, and other major constituencies in our state.

**Janine Hansen, past Northern Nevada Director, Nevadans for Sound Government; and, President, Nevada Eagle Forum:**

We worked really hard on a couple of initiative petitions. One thing I found, as we went around the state, was that there are a lot of people who are interested in participating. Because of their individual circumstances, they aren't as involved as they would like to be. I have concerns, as I expressed last session, about this bill. When people are appointed, they are far less responsive and less accountable to the people. They don't have to take a call from a constituent like you do, because they don't have any constituents, essentially. You can always get a far more sympathetic ear, someone that will respond to your concerns, if they're elected, because they know that they have a responsibility, which isn't inherent in those that are appointed. Perhaps they want to be that way, but the natural selection process diminishes their desire or their need or the circumstances which force them into being more responsive and more accountable to the public. I'm concerned about that.

With regard to the 13 or 9 members, there are 13 members on this Committee. You're able to do your work very well, and I think oftentimes when you have a diversity of individuals, it creates a good thing. You can have ideas from people with different backgrounds, constituencies, ideas, and experiences in life. Oftentimes that might create conflict, like happened last session in this Body, where there were some issues, where there was a lot of in-fighting and conflict. But the end result was better because more individual people were represented. One of the problems we have in Nevada, with having any influence on what happens in Washington, D.C., is the fact that we only have 5 people representing us in that large body. In the Senate there are only 2; out of 435 Congressmen, we only have 3. So we don't have much influence there.

The same thing happens when you make a board smaller. There is less ability for people to have personal contact and a relationship with people on the board, because they're busier and because they have more constituents. You know that as your Assembly Districts grow, it's more difficult for you to have a personal relationship with those who are there. Leaving a board larger helps in terms of having more citizen participation because, naturally, 13 people know more people than 9. I think it is good for the democratic process when people have an opportunity to participate. I don't see any guarantee that an appointed

board would be better than an elected board, and there might be additional problems.

[Janine Hansen, continued.] One problem I had last time was with the trailer legislation which was originally part of this. I had concerns about the particular constituencies that were picked out, so that they had the right to participate in the appointing process. I didn't see anybody in those particular constituencies who would represent me, or my concerns, or the taxpayers as a larger concern, or different constituencies that I was interested in. I have a concern that when you appoint them that way, it becomes a closed-shop of a particular point-of-view, or constituency, education for example.

There's a lot of interest in what happens at the university, not just for people in education, because it affects all of us. Our children participate in the education system, our businesses need people who are educated, and our communities are better because of the way that those universities educate. So there's a tremendous interest by the community at large, not just a very narrow constituency. I'm also concerned about limiting those who would be appointed. In the end, this board would have only 3 people who are elected and 6 people who are appointed. I have experienced some situations where you have elected versus appointed, especially if the appointed people outnumber the elected people. It almost becomes an adversarial situation, where those who are elected are trying to represent their constituents, and the appointed people have a special interest and that's the reason they've been appointed. I'm concerned about that.

We need as much involvement of the people in our state participating in the election process as possible, and that's why I've opposed this from the beginning. I'm sure we could argue about even appointing the Legislature. I would oppose that kind of thing, because what we want in the end is more participation from more people. I think this bill tends to decrease that in the long run, so I continue to oppose it.

**Lynn Chapman, Vice President, Nevada Eagle Forum:**

[In opposition.] Ms. Hansen has just about covered everything I was going to talk about. Accountability and voting versus appointment, we're very concerned about that. I'd rather see some accountability to the people because I think we lose our voices if we're not included.

**Co-Chairman Mortenson:**

We will close the hearing on A.J.R. 11. The next bill, A.J.R. 13, was my bill last session, so I'm going to turn the meeting over to Co-Vice Chairman McCleary.

**Co-Vice Chairman McCleary:**

[Opened the hearing on A.J.R. 13 of the 72nd Session. [Exhibit G](#)]

**Assembly Joint Resolution 13 of the 72nd Session: Proposes to amend Nevada Constitution to revise provisions regarding special sessions of Legislature. (BDR C-313)**

[Called Assemblyman Mortenson.]

**Assemblyman Mortenson, Assembly District No. 42, Clark County (part):**

Assembly Joint Resolution 13 came from the 72nd Session. The preamble to the bill very well defines what the bill is about, and the reasons for the bill.  
[Read from text of the bill.]

WHEREAS, There are 34 State Legislatures that have the ability to call a special session when deemed necessary; and

WHEREAS, The Nevada Legislature is 1 of only 16 state legislative bodies in the nation that may not call a special session, and 1 of only 9 that may not determine any of the subject matter to be considered in special legislation [session]; and

WHEREAS, The *Nevada Constitution* is grounded on the principle of three equal branches of State Government, with the ultimate authority and responsibility to enact necessary legislation being vested in the Legislative Branch, subject to final approval by the Governor; and

WHEREAS, Nevada's current constitutional language, which allows only the Governor to call the Legislature into special session, impedes and is contrary to the constitutional provision that vests the legislative authority in the elected legislators; and

WHEREAS, The Nevada Legislature should be authorized to operate with a reasonable degree of independence from the Executive and Judicial Branches as consistent with the separation of powers principle, and should be empowered to identify those topics that may require the Legislature to call a limited special session deemed

to be in the best interest of the people of the State of Nevada; be it resolved, et cetera.

[Assemblyman Mortenson, continued.] It seems to me very odd that we are a separate power, separate and individual, and yet we, in an emergency, cannot call ourselves into session. We're pretty much alone in that respect. The majority of the states allow themselves to do that. This bill hopes to change the *Nevada Constitution*. It passed through the Assembly last session with a vote of 41 to 1, and passed unanimously through the Senate with a 21 to 0 vote.

**Assemblyman Conklin:**

You talked about 16 states that do not have a provision similar to this in their constitution. What is the make-up of those states? I'm curious, do those states have citizen legislatures, such as Nevada, or is the make-up of those states different than ours?

**Assemblyman Mortenson:**

Michelle Van Geel, would you happen to have a listing of which states those were?

**Michelle Van Geel, Committee Policy Analyst, Legislative Counsel Bureau:**

I don't have that with me, but I would be happy to provide that for the Committee ([Exhibit H](#)).

**Assemblyman Mortenson:**

We can certainly provide that to you, Mr. Conklin.

**Assemblyman Denis:**

I see that in order to call the special session, it would be done through a petition, where two-thirds must concur.

**Assemblyman Mortenson:**

Right, two-thirds. In order to call a special session, it's not easy, and it won't be done lightly. But two-thirds of each House must sign a petition. They will also, at that time, specify what will be heard. So it will not be a mini-regular session, where all kinds of bills can come up. It will be strictly regulated as to the questions that were initially placed in the petition, and it will be limited to 20 days.

**Assemblyman Denis:**

Who would actually initiate the petition?

**Assemblyman Mortenson:**

I would say any legislator who wanted to would start talking it up. They would say we've got a big problem here and we need to go into special session and solve the problem. There could be an elected official, and there is an impeachment situation where we believe there should be an impeachment, where maybe the Governor doesn't believe there should be an impeachment. The legislators, if two-thirds of them in each House decided we needed to convene to do that, we could do that.

**Assemblyman Seale:**

Does this still allow the Governor to call a special session?

**Assemblyman Mortenson:**

Absolutely. It in no way infringes upon the Governor's powers. Nothing has been stricken regarding the Governor; he has the same powers.

**Co-Chairwoman Koivisto:**

I want to follow up on Mr. Denis' question. It seems like there should be more specifics about how this would work. Is there a time limit from the time you start your petition to get two-thirds of the people to sign on? Or would this go on until you got the two-thirds?

**Assemblyman Mortenson:**

This is two-thirds of the legislators. We need to just get two-thirds of the Assemblymen and two-thirds of the Senators to agree that this is an important issue, and they will sign on a petition. If one single legislator decided this was an important issue, he could go to the Legislative Counsel Bureau and say, check the other legislators and see if there is an appetite for a special session. It can be done many ways. If we think that it's important to have specific details, we could always put that in legislation. But the broad principle of being able to call ourselves into special session would be in the *Nevada Constitution*.

**Co-Chairwoman Koivisto:**

I'm concerned that if somebody has an agenda, we could be called into special session frequently.

**Assemblyman Mortenson:**

You have to have two-thirds in each House. If you can get two-thirds in each House, then I think it's an important issue. There may be many attempts, but until you can elicit those two-thirds from both Houses, you're not going to get a special session.

**Assemblywoman Angle:**

In Section 2 [referring to A.J.R. 13 of the 72nd Session], it discusses the bills, and this would not have anything to do with the Governor. One of the provisions in the beginning of this preamble says that the Governor limits the subject matter. But this would still allow him to limit the subject matter, and we could not override the subject matter, that's my understanding. And if we were to call a special session, we then would have to do it for a specific reason too, we wouldn't be able to override that. Explain that part.

**Assemblyman Mortenson:**

If we call a special session, it overrides any Governor's authority. In other words, if we called a special session and the Governor decided that he would call one at the same time so he can limit what we can consider, we would have the authority to do that, not the Governor. He could call a special session afterwards if he wanted to, but we decide what we will consider.

**Assemblywoman Angle:**

Is that specifically stated in the bill here? [Assemblyman Mortenson replied in the affirmative.] Okay. And if the Governor called the special session, we cannot add to his call?

**Assemblyman Mortenson:**

No. If he calls a special session everything is exactly the way it exists at the present time.

**Co-Vice Chairman McCleary:**

You mentioned, in the event we felt there should be an impeachment of an officer, and maybe the Governor didn't agree, that we could call a special session. But what if it was the Governor?

**Assemblyman Mortenson:**

I mentioned to you that this could be a situation. But in reflecting, perhaps Michelle Van Geel could confirm this, I believe there is a provision in the *Nevada Constitution* which says the Supreme Court gets into the act if there's an impeachment of the Governor, but I don't remember.

**Co-Vice Chairman McCleary:**

The reason I'm asking this is because the Governor is the one who currently, in the *Nevada Constitution*, has sole power to call a special session of this Body, and of course we're the only ones that have sole power of impeachment. What if a Governor was acting lawlessly and an impeachment was in order, how could we prosecute it? We'd have to wait until we came back in session?

**Assemblyman Mortenson:**

Again, I believe, in reflecting back to when I went through this *Constitution* very thoroughly a few years ago, that there may be a provision where the Supreme Court steps in. But I'm not sure of that. In any case, we can make the statement that if we're to proceed against an elected official, and the Governor disagrees, we can do it.

**Michelle Van Geel:**

I'm not sure it addresses the whole answer, but in the *Constitution of the State of Nevada*, Article 7 concerns impeachment. You'll notice, in Section 1, it describes that the Assembly shall have the sole power of impeachment. Later in that section—and I think Mr. Mortenson that this is what you were referring to—if it is the case of the Governor, or the Lieutenant Governor, the Chief Justice of the Supreme Court will preside over the Senate during that part of the impeachment. The first part of the impeachment would still take place in the Assembly.

**Assemblyman Mortenson:**

Okay, then my argument to you, and the one you just presented is a good argument. If we had a rogue governor, it's improbable, but it's possible, what would we do in that case? In this case the Assembly and the Senate can petition to have a special session and we could proceed.

**Co-Vice Chairman McCleary:**

And that part of the bill makes sense to me, too. Otherwise, I don't know how we would act, we would have to wait until the regular session came, and we could lawfully assemble ourselves. It just doesn't make sense.

There was also a question Co-Chairwoman Koivisto brought up about the specifics, of how to deal with this. Like a lot of things, we as a legislative body make policy. But like you said, and I think that everyone can agree here, by statute we can set the parameters of that.

**Assemblyman Mortenson:**

I personally believe the *Constitution* is a broad document without details and we can set the details in law, because we may want to change the details from time to time, depending on the situation. But the broad policy is there, and we can change the details if we decide we need to.



**Co-Vice Chairman McCleary:**

One more comment about Mrs. Angle's remarks about the scope. If we called ourselves in, we could specify in statute that it should be on one subject, that could also be written into the rules of that session. Because every time we come together as a session, we have to establish the rules for that session. And it could say only to deal with this subject and then we're done, correct?

**Assemblyman Mortenson:**

Yes, Mr. Co-Vice Chairman, that's what the bill says. That is, when the petition is drawn up, with the two-thirds or more signatures of each House, they will also, in that petition, decide on the subject matter of the special session. Plus we have the right to establish the parameters of the financing for it, and so on.

**Janine Hansen, President, Nevada Eagle Forum:**

I thought a lot about this issue. I was familiar with it last session. Last session we dealt with the Model Emergency Health Powers Act. We worked with Mrs. Koivisto in her Health and Human Services Committee on that. Lynn [Chapman] and I spent a year in interim committees on that issue. We were exceedingly concerned because in the case of an emergency, under the Model Emergency Health Powers Act, the Governor was given power to virtually act as a dictator. He could confiscate food, fuel, clothing, and guns. He could implement all kinds of emergency measures without any oversight by the Legislature whatsoever. One thing we worked very hard for was to get the Legislature involved in that process. Ultimately, we were very pleased. We felt like we had a better law when we finished, than when we began. But because of that experience, I realized when this was brought forward, that the Legislature doesn't have the ability to call itself into session.

What if you had a situation in an emergency, as the author of the bill brought up? In that situation, the Legislature felt it was important for them to respond, as well as the Governor. In that one situation, I felt it was important for the Legislature to have that ability. And of course, it has the safeguard of the two-thirds majority in both Houses, which is a significant bar to have to get over. The issues and business is limited as well in this legislation. It speaks well to the separation of powers to protect the individual rights and concerns of the people of the state. Nobody wants to make it easy to have a special session. I understand that you're the ones who pay a high price for having to leave whatever you're doing to do that.

Under the limitations in this bill, and with reflection on the possibilities of what could have happened, just under that one situation, with the Model Emergency Health Powers Act, which I felt that the Legislature dealt with so well, I would

be in favor of allowing the Legislature to have that opportunity to do that. And we all know that it would be only in extraordinary circumstances. So we do support the bill.

**Lynn Chapman, Vice President, Nevada Eagle Forum:**

I want to reiterate that we do support this. We went to 11 hearings; it was actually a year and a half. I remember every single one of them, when we went to the Model Emergency Health Powers Act hearings. It was incredible. It's very important that one person doesn't have all the power. I like it when it's spread around a little bit. I'm in favor of having the Legislature be able to call special sessions, even though we don't like them.

**Co-Vice Chairman McCleary:**

I'm going to close the hearing on A.J.R. 13 of the 72nd Session and turn the chair over to Assemblyman Mortenson.

**Co-Chairman Mortenson:**

We're adjourned [at 4:55 p.m.].

RESPECTFULLY SUBMITTED:

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Celeste Gunther  
Committee Attaché

APPROVED BY:

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Assemblyman Harry Mortenson, Co-Chairman

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

**EXHIBITS**

**Committee Name: Elections, Procedures, Ethics, and Constitutional Amendments**

**Date: March 1, 2005**

**Time of Meeting: 3:54 p.m.**

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
***	A	*****	Agenda
A.J.R. 11	B	Michelle Van Geel, Legislative Counsel Bureau	A.J.R. 11 (2nd reprint) LCB Bill Summary
A.J.R. 11	C	Assemblywoman C. Giunchigliani	Various information Regarding A.J.R. 11
A.J.R. 11	D	Daniel Klaich, Vice Chancellor for Legal Affairs, UCCSN	UCCSN Comments on A.J.R. 11
A.J.R. 11	E	Daniel Klaich, Vice Chancellor for Legal Affairs, UCCSN	State Level Coordinating and Governing Agencies for Higher Education
A.J.R. 11	F	Daniel Klaich, Vice Chancellor for Legal Affairs, UCCSN	UCCSN Board of Regents host account information
A.J.R. 13	G	Michelle Van Geel, Legislative Counsel Bureau	A.J.R. 13 (1st reprint) LCB Bill Summary
A.J.R. 13	H	Michelle Van Geel, Legislative Counsel Bureau	LCB Memo: State Legislatures that cannot call themselves into special session