

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

**Seventy-Third Session  
March 15, 2005**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order at 3:53 p.m., on Tuesday, March 15, 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. 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:**

Mr. Bob McCleary, Co-Vice Chairman (excused)  
Mrs. Sharron Angle (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Genie Ohrenschall, Assembly District No. 12,  
Clark County (part)

**STAFF MEMBERS PRESENT:**

Michelle Van Geel, Committee Policy Analyst  
Sheila Sease, Personal Attaché to Assemblyman Mortenson

Celeste Gunther, Committee Attaché

**OTHERS PRESENT:**

Carole Vilardo, President, Nevada Taxpayers Association  
Patricia Cafferata, Former State Treasurer  
John Wagner, President, Burke Consortium of Carson City  
Kathy Augustine, Nevada State Controller  
Kim Huys, Acting Chief Deputy, Office of the Controller, State of Nevada  
Teresa Moiola, Assistant Controller, Office of the Controller, State of Nevada  
Lynn Chapman, Vice President, Nevada Eagle Forum  
O. Q. Chris Johnson, Chairman, Nevada Committee for Full Statehood  
Bob Loux, Executive Director, Agency for Nuclear Projects, Governor's Office, State of Nevada  
Dan Musgrove, Director, Intergovernmental Relations, Office of the County Manager, Clark County, Nevada  
Joe Kennedy, representative of the Western Shoshone National Council  
Frank Perna, Private Citizen, Clark County, Nevada  
Judy Treichel, Executive Director, Nevada Nuclear Waste Task Force  
James Muth, Private Citizen, Elko County  
Peggy Johnson, Executive Director, Citizen Alert  
Irene Mavis, Planning Manager, Department of Comprehensive Planning, Clark County, Nevada  
Kaitlin Backlund, Legislative Advocate, representing the Nevada Conservation League  
Thomas Jefferson, Private Citizen, Elko County, Nevada  
Janine Hansen, President, Nevada Eagle Forum  
Joe Johnson, Legislative Advocate, representing the Toiyabe Chapter of the Sierra Club  
Terry Hickman, President, Nevada State Education Association (NSEA)

**Co-Chairman Mortenson:**

[Called meeting to order. Roll called.] Let's open the hearing on A.J.R. 11 of the 72nd Session.

**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)

**Michelle Van Geel, Committee Policy Analyst:**

[Submitted [Exhibit B.](#)] A.J.R. 11 from the 72nd Session was presented to the Committee on March 1, 2005, by Assemblywoman Chris Giunchigliani. Among other things, the measure would reduce the membership for the Board of Regents of the University and Community College System of Nevada (UCCSN) and provide that some members are elected while other members are appointed by the Governor.

The only official amendment proposed to the Committee is behind Tab A ([Exhibit C](#)). It was in the letter presented by Interim Chancellor James Rogers. The last three paragraphs of that document discuss the amendment. The proposed amendment indicates that the size of the Board is to be reduced to nine members, with three members to be elected in each of the Congressional Districts. The growth of the state will eventually change the composition of the Board and by 2020, the majority of the Board will once again be elected. He has concern with that and he doesn't believe it should be in the *Constitution*.

Secondly, he doesn't believe that a four-year term for the Regents, as proposed in the constitutional amendment, creates the institutional memory necessary for good governance. He believes the continuity of the Board would best be served by the six-year terms. He also believes there should be a process for screening prospective appointments to the Board of Regents, similar to that utilized by the Judicial Selection Commission. That would prevent the Board of Regents from falling into the domain of a political spoils system.

**Co-Chairman Mortenson:**

It's very important for the Committee to know that this is a returning [Assembly] Joint Resolution. If we were to amend it, it would have to start from the beginning. We are going through the second year and if it's passed this time, it goes to the voters. If we were to amend it, we would have to pass it twice again. Of course it's up to the author of the bill, but I presume you would like to just go ahead with the bill.

**Assemblywoman Giunchigliani:**

My preference is to not amend the bill. We spent all of last session working on this issue. This was actually an early introduction, and we modified it based on the public hearings. Looking at the Chancellor's letter, it is ironic, because prior to being Chancellor, he supported the creation of the appointed Board.

There is no projected number for the size of the Board, other than that we might pick up one more congressional seat within the next six years. The bill anticipated that, and, therefore, one more seat would go to an elected, rather

than an appointed member. The idea that it would be equal numbers of appointed and elected officials by 2020 is not reasonable considering the population shift that could potentially move a congressional seat. The bill did anticipate what will happen as our population grows. The final vote in the Assembly was 26 yes and 16 no. In the Senate, it was 11 yes and 10 no.

[Assemblywoman Giunchigliani, continued.] The four-year terms for Regents was overwhelmingly supported, because it was unusual for a Regent to have a six-year term. Only United States senators have a six-year term. It allows for institutional memory, but if someone was not working out, there was no opportunity for people to be voted out of office. The thought was that four years was more reasonable. I look forward to working with individuals regarding how the nomination process would occur and who would be making the nominations. So while I appreciate the Chancellor's concerns, I think they are nebulous at best and not well thought out.

**Co-Chairman Mortenson:**

Let's close the hearing on A.J.R. 11 of the 72nd Session.

ASSEMBLYMAN DENIS MOVED TO DO PASS ASSEMBLY JOINT RESOLUTION 11 OF THE 72nd SESSION.

CO-CHAIRWOMAN KOIVISTO SECONDED THE MOTION.

THE MOTION CARRIED. (Mrs. Angle, Ms. McClain, and Mr. McCleary were not present for the vote.)

**Co-Chairman Mortenson:**

We have been asked to request a BDR [Bill Draft Request] to honor the League of Women Voters in their 85th Anniversary.

CO-CHAIRWOMAN KOIVISTO MOVED TO REQUEST A COMMITTEE RESOLUTION HONORING THE LEAGUE OF WOMEN VOTERS.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

THE MOTION PASSED. (Mrs. Angle, Ms. McClain, and Mr. McCleary were not present for the vote.)

**Co-Chairman Mortenson:**

We will open the hearing on A.J.R. 13 of the 72nd Session.

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

**Michelle Van Geel, Committee Policy Analyst:**

[Submitted [Exhibit D.](#)] Assembly Joint Resolution 13 of the 72nd Session was presented to the Committee on March 1, 2005, by Assemblyman Mortenson. The measure provides that a special session of the Legislature may be convened on extraordinary occasions by a petition signed by two-thirds of the members of each House of the Legislature. The measure also limits the length of the special session called by the Legislature or the Governor to 20 calendar days. There weren't any amendments offered during testimony.

**Co-Chairman Mortenson:**

One of the clauses in the bill says all but 12 of the states allow their legislatures to bring themselves into session. One of the Committee members asked to know which ones do not. Michelle got that information and distributed it. The interesting thing is that in the interim four other states moved that direction and hopefully, we will today.

ASSEMBLYMAN SEALE MOVED TO DO PASS ASSEMBLY JOINT RESOLUTION 13 OF THE 72ND SESSION.

ASSEMBLYWOMAN GIUNCHIGLIANI SECONDED THE MOTION.

THE MOTION CARRIED. (Mrs. Angle and Mr. McCleary were not present for the vote.)

**Co-Chairman Mortenson:**

We will close the hearing on A.J.R. 13 of the 72nd Session and open the hearing on A.J.R. 3.

**Assembly Joint Resolution 3: Proposes to amend Nevada Constitution to revise provisions governing certain constitutional officers. (BDR C-947)**

**Carole Vilardo, President, Nevada Taxpayers Association:**

This is the third or fourth time that we have supported this concept. There is a great deal of concern about the protection of public money collected on behalf of the taxpayers. Public money comes from the taxpayer to be spent. Obviously, you want a system of checks and balances. I have listened, each

time we have had a proposal like A.J.R. 3 come up before the Legislature, to the fact that you must have the separation of these two offices.

[Carole Vilardo, continued.] I'd like to share with you what Florida has done. Florida reorganized, and I believe it is going to happen over the next couple of years in a number of states. Instead of their treasurer, they now have a chief financial officer. It's not that you are eliminating the positions. Your positions are still there, whether you make the controller the elected official and eliminate the treasurer and have the controller hire a treasurer, or you have the treasurer that is the succeeding office and you make the controller an appointed office. With a chief financial officer, you are going to wind up with somebody who becomes the titular head over these positions who can step in, but you hire the necessary staff to do the services to protect the public's money and your investments.

What you are looking at is something that is more akin to updating the offices. I've listened to previous testimony about how you cannot remove these offices and I am sure the same testimony occurred when we had a bullion officer who was a constitutional officer. We eliminated the bullion officer as a constitutional officer. At one point in time we had the superintendent of education as a constitutional officer. We eliminated that. Does that mean education is any less important? Of course not. It is just a function of various things and the ability to update what you are doing.

To this end, again, we will support the consolidation of the office. It has never been our contention to tell you which office you should roll into which. If you want, you might look at Florida, because that could be efficient.

I urge you to understand that all you are doing is updating the provisions. You will not eliminate the Controller. We won't let you eliminate that position. It is not just me, but anybody who represents the taxpayer or those of you who represent people who receive money from the State to carry out various functions. We're not going to let you do something that does not maintain the level of accountability. We're going to be watching, irrespective of what you call the heads of these offices.

**Assemblyman Bob Seale, Assembly District No. 21, Clark County (part):**

I would like to give a little bit of history on where this bill has been. In 1995, it passed through the Assembly with four "No" votes. It passed through the Senate with four "No" votes. The balance, obviously, voted for it. In 1997, it entered on the Senate side and did not get out of the Senate, so it wasn't able to come over to the Assembly.

It's interesting to note that in the United States there are about 38 treasurers elected by the public, four elected by the legislature, and eight are appointed. On the other hand, there are 13 elected controllers. The balance are appointed by different entities, some are in the department of administration, some in business and industry, some combined with the treasurer, and you heard about Florida having a chief financial officer.

In the private sector, I acted as a senior financial officer for a large multinational corporation. I had both the controller and the treasurer reporting to me. This is frequently the way it is done in the private sector, and it works reasonably well.

You will hear testimony that says we won't save any money by combining these offices. I would beg to differ. I have given you an organizational chart ([Exhibit E](#)) that shows how the Office of the State Treasurer is currently laid out, and how it would look after consolidation. Behind that, there is an analysis that I originally performed in 1995, updated with the assistance of certain folks in the Executive Branch who were able to give me these numbers. You can see for the biennium, it is about \$1.5 million. More importantly, beyond the dollars, it is time for Nevada to step into the 21st Century and create some efficiencies of scale.

Carole Vilardo mentioned that we had an elected bullion official, actually the Inspector of Mines, Surveyor General, and the State Mineralogist. All these positions were elected statewide officials, who became archaic. I would argue that we have one more office, as an elected official, that is archaic. That is not to say that the position of Controller is not important. It is a critical and vital position for the State of Nevada. It simply does not need to be elected.

One of the other arguments that will be made is that we are unbalancing the checks and balances. Checks and balances are not appropriate here; that is between the Executive, Judiciary, and the Legislative Branches. These two positions are in the Executive Branch. The real question is one of internal control. Do we have internal control to make sure that there is not some sort of embezzlement or misappropriation?

I would point out that in 1869, Evan Rhoades, the first Treasurer of the State of Nevada, with the division of two offices, a separate treasurer and a separate controller, managed to embezzle the entire Permanent School Fund. He absconded to San Francisco where he was found dead as a result of an overdose of opium. Later, in the 1920s, then Controller and Treasurer Ed Malley and George Cole, together, conspired to embezzle an entire year's worth of the General Fund. These two positions were in place.

[Assemblyman Seale, continued.] I contend that what is important here is internal control. Things have changed since we established our great State and our *Constitution*. We now have a Legislative Audit Division which oversees those offices, outside auditors, and a banking community which does not allow us to easily mess with money. This can be done, as it is in the private sector, without any risk to the citizens of the state of Nevada.

**Assemblywoman Giunchigliani:**

We have worked with this issue off and on since 1995. Do we need qualifications noted in this bill for the type of individual who could run for the Office of Treasurer?

Also, should we look at a different name change to be more reflective of what's going on in our society? What is a treasurer versus a controller or a financial officer?

**Assemblyman Seale:**

I do agree with Carole Vilardo's comments about a chief financial officer. I believe that makes sense and it takes some of the mysteriousness out of what is a treasurer and what is a controller. In the position of controller, it is very important that a person be appointed with the appropriate academic background and ethical standards that the position would require.

**Assemblywoman Giunchigliani:**

I would agree with you; that is an administrative job now. That would be the more appropriate place for that activity.

**Assemblyman Seale:**

Other states have moved consistently and constantly away from having an elected controller. In Texas, the state combined those two offices in the mid-1990s; they folded the treasurer into the controller's office, and there were some very clear and compelling reasons for them to do that.

**Assemblywoman Giunchigliani:**

Should we use the term "treasurer"?

**Assemblyman Seale:**

I'm perfectly comfortable with the term "chief financial officer."



**Assemblywoman Giunchigliani:**

Do you think we should consider language that recognizes that the control will always be there, and that the intent would be to create an administrative position?

**Assemblyman Seale:**

Absolutely.

**Assemblywoman Giunchigliani:**

I would not want to lose that concept.

**Assemblyman Seale:**

I agree with that.

**Assemblywoman McClain:**

Isn't the correct term "comptroller"?

**Assemblyman Seale:**

Both terms are used interchangeably. Comptroller has been around for a long time. It is an older word and is used less and less now. I don't think you will find comptrollers; certainly not in the private sector. I can't think of a state that actually uses "comptroller," but they're interchangeable.

**Patricia Cafferata, Former State Treasurer:**

I am here today to oppose A.J.R. 3 to abolish the State Controller's office for the following reasons: The State Controller and Treasurer are integral parts of the checks and balances in the State's accounting system; they are elected to protect the people's money. The treasurer receives the cash. The controller has the checkbook and is also the chief accountant.

By separating these functions we prevent embezzlements. The treasurer ensures that this money goes into the bank account and invests it. The controller disperses the money. Neither one of them can act without the other. When they write the checks or warrants, they both sign the checks. That's the only way you can get money out of the State's bank account.

Businesses of any size have both treasurers and controllers. The major embezzlements in this state's history happened when the treasurer and controller worked together. Any time you have collusion between the people who have access to the money and the checking account, there is an opportunity to embezzle money.

[Patricia Cafferata, continued.] Evan Rhoades embezzled money in the 1860s and William Parkinson, who was the State Controller at the same time, was also borrowing money out of the State Treasury. That was a working-together operation. Ed Malley and George Cole, also in the 1920s, embezzled about \$500,000. Because of Evan [Rhoades]'s embezzlement, the State could not pay off its territorial debts until the 1920s. For [Ed] Malley and George Cole's embezzlement, George Wingfield paid some of the money because he was the surety. The taxpayers paid an additional property tax of 10 cents on the dollar for 10 years to cover the embezzlement.

The argument is that we are going to save the State's money. I didn't see Mr. Seale's charts, so I don't know exactly what it says. But the checks are still going to have to be written. Instead of a lower-paid elected official, like the controller is right now, you are going to have to pay a high-priced professional, probably a CPA or someone with an accounting degree. If that is the only justification for passing A.J.R. 3, it won't accomplish any savings.

I am opposed to abolishing elected offices, because elected officials are accountable to the public, whereas appointed officials are not. This has been here for over a hundred years. Passage of this bill will not hurt the current incumbent. To take effect, A.J.R. 3 must be passed in this session, in the 2007 session, and the people must approve it in 2008. If this resolution is passed each time, then it won't affect the person who is elected State Controller in 2006, so you are not going to get any savings for a very long time, if there are any savings.

Finally, there's no reason to pass this resolution. The system isn't broken, so there is no reason to fix it. It is not an obsolete office; it's an integral part of our accounting system. The late State Controller Darrel Daines and I have testified in opposition to this bill in the past.

I would like to make a few comments addressing Carole Vilardo's remarks. She talked about Florida having reorganized. I am not sure how that worked, because Florida didn't have a treasurer. They had an insurance commissioner, who also acted as the treasurer of the state. I agree with her that protecting the public's money is the most important thing that these two offices do. You don't want to eliminate any controls. If the idea here is just to modernize because this is the latest thing to do, I think you ought to have more respect for history. Our founding fathers believed very strongly that we needed the two offices for the checks and balances.

[Patricia Cafferata, continued.] An instance of embezzlement happened in this state a few years ago in the Clark County treasurer's office. It was an opportunity for someone who served in treasury functions to get the money and she was able to create her own vendor. She got the money and then she set the checks up to her own company that she had created. That is not something that can happen between the state treasurer and controller, because the controller sees no opportunity to create a vendor, because they're not in charge of the accounting. They only have the money.

I would like to close by saying it was a bad idea the last time I testified on this bill and it's still a bad idea. I hope you vote against A.J.R. 3.

**John Wagner, President, Burke Consortium of Carson City:**

We oppose this idea because of the checks and balances and separation of powers. I like voting for people who I feel can do a good job. I also believe that it's the people's right to vote. Our present controller has done a good job. She's brought a lot of money back into the State, going after deadbeats. There was some criticism about her flying all over the place, but as I understand it, she flies free because she is a former flight attendant. That is a benefit to us, since she is not flying on our dollar; she is flying on someone else's dollar.

As far as cost savings, we may or may not save any money. If we do, how much is it going to save us, anyway? We have to combine the two offices, so we are going to have people doing one thing and people doing the other thing. I don't care what other states do.

Nevada needs to do what Nevadans want to do. If we want to keep it this way, we'll get a chance to vote on it eventually, if you pass it out this time, and it's passed out again in two years.

**Kathy Augustine, Nevada State Controller:**

I am here today to oppose A.J.R. 3, as I have done every session since I was in the Senate. [Read from prepared testimony, Exhibit F.]

I urge the Committee to consider the repercussions of A.J.R. 3 carefully and to engage in serious debate and unbiased research before choosing to eliminate an elected constitutional office, which serves the State of Nevada and its citizens in a way no other office or agency duplicates. We have provided you a packet of information (Exhibit G) today to help clarify the numerous duties of our office and some of the potential repercussions if it is eliminated.

[Kathy Augustine, continued.] One of the main arguments for the abolition of the State Controller's office has been the claim of cost savings. The issue of eliminating or consolidating the Office, as we all know, is not a new one. This first came up when Mr. Seale was State Treasurer and Mr. Daines was the State Controller. I've heard cost-savings numbers ranging over the years from \$500,000 to the current \$1.5 million. However, these claims of cost savings have never been substantiated.

Many different proposals to eliminate the Office have been considered by the Legislature over the years. However, I'll only address A.J.R. 3's proposal to consolidate the controller's office within the treasurer's office. First, there is virtually no redundancy in positions between the two offices. Since the majority of the State Controller's Office budget is spent on personnel, this further weakens the argument that consolidation would result in a significant cost savings. The treasurer's office does not employ accountants, produce the Comprehensive Annual Financial Report, the Popular Annual Financial Report, or the checks and the warrants, administer the Statewide accounting system or the debt collection program, or do the [Internal Revenue Service Form] 1099 reporting, and they do not support the vendors' services, just to name a few.

Included in the packet that we've provided ([Exhibit G](#)), you'll find the State Controller's top management positions and the Office duties. Even if a small savings could be realized, is it worth stripping the citizens of our great state of the constitutional right to elect a member of the Executive Branch of government?

The State Controller is one of only six elected constitutional officers. Eliminating the Controller would eliminate, and ultimately reduce the voice of the people in State government.

It's also been argued that there is no longer any need for a separation of powers to provide the checks and balances system, given today's level of technology. I would argue that the advent of technology has, in fact, increased the risk of fraud. Technology does not protect any office from high-tech manipulation of computer programs or records. Checks and balances must still be provided by personnel whose job duties are segmented into different responsibilities.

[Kathy Augustine, continued.] We need only look to the federal government as an example. At the highest level of our government, there's a need for a separation of power and finances. While both are appointed by the President of the United States, there is an independent Secretary of the Treasury and a Comptroller of the Currency.

The *Standards for Internal Controls in Federal Government* manual states,

"Key duties and responsibilities need to be divided or segregated among different people to reduce the risk of error or fraud. This should include separating the responsibilities for authorizing transactions; processing and recording them; reviewing the transaction; and handling any related assets. No one individual should control all key aspects of a transaction or an event."

Even in states where the position of the controller is not elected, it is very rarely combined with the office of the treasurer. In a few states where the offices were combined, it was the treasurer's office that was eliminated, not the controller, as you heard previously, as with the case in Texas and Florida, where the offices were combined and the chief financial officer remained. Additionally, arguments have arisen that government should run more like a business, which typically has controllers, not treasurers.

The primary role of the state controller's office is to be the lead elected official in further imposing accountability and financial transparency. The controller serves as the state's chief financial officer (CFO). Do you really want to eliminate the state's CFO?

The State Controller is also responsible for financial reporting, an increasingly important role in the age of regulations like the Sarbanes-Oxley Act of 2002. While it currently does not apply to the public sector, there are increasing moves by the federal government to apply Sarbanes-Oxley-like standards at the state government level. We need to continue the tradition of the State Controller being a leader in governmental financial reporting. The Controller actively monitors and participates in national discussions regarding Sarbanes-Oxley-type requirements in the public sector.

[Kathy Augustine, continued.] History teaches us a well-known lesson with the embezzlement from the State coffers. If we put that amount in today's figures, it would translate into \$5.6 million. The State Controller's office is critical in providing for the checks and balances system in State finances. The framers of our *State Constitution* understood this basic principle when creating and maintaining separate controller and treasurer offices.

**Assemblyman Seale:**

Thank you for corroborating my testimony actually. If, as you suggested, in these combinations the treasurer's office was being eliminated, why do we have 38 treasurers that are elected and 13 controllers?

**Kathy Augustine:**

There are 14 elected state controllers. That number has actually gone up one. What you haven't taken into account is that the states that don't have a controller, have an elected state auditor. Therefore, you have an auditor or a controller in all of the states.

**Assemblyman Seale:**

And how many elected auditors are there?

**Kathy Augustine:**

We can get you that number.

**Assemblyman Seale:**

I'll supply it to you. It is four.

**Kathy Augustine:**

No. Excuse me, there are about 20 actually.

**Assemblyman Seale:**

Elected?

**Kathy Augustine:**

Elected.

**Assemblyman Seale:**

Statewide?

**Kathy Augustine:**

Elected statewide auditors. If you turn to Table 13 on page 38 of our handout ([Exhibit G](#)), it shows the states that elect a controller: California, Connecticut, Florida, Idaho, Illinois, Indiana, Maryland, Nevada, New York, South Carolina, South Dakota, Texas, West Virginia, and Wyoming. There are also several states that are appointed by the governor.

**Assemblyman Mo Denis:**

What are the requirements to become a [State] Controller?

**Kathy Augustine:**

It is the same as it is to be the State Treasurer. You must be the age of 25; a qualified elector; and a resident of the state of Nevada. For both positions it is exactly the same.

**Assemblyman Denis:**

So the Controller is the chief financial person?

**Kathy Augustine:**

Correct. The State Treasurer is the chief disbursing officer.

**Assemblyman Denis:**

So, for either of those positions, do we require any type of financial experience?

**Kathy Augustine:**

No, not in either position.

**Assemblyman Denis:**

So, we rely on hiring somebody who has that financial experience, is that correct?

**Kathy Augustine:**

Yes. We have a whole section within our Office for financial reporting. That is where the majority of our accountants are. We also are a liaison to the United States Treasury for the Federal Financial Management Improvement Act of 1996 [31 U.S.C. 3512] and the Single Audit Act of 1984 [31 U.S.C. 7501]. There are no accountants employed in the State Treasurer's Office. We do all of the arbitrage for their bonds, as well.

**Assemblyman Denis:**

So the State Treasurer and the Controller are basically managers, not really financial people.

**Kathy Augustine:**

Correct, they are administrators. I'd also point out that in Section 1 ([Exhibit G](#)), former Controller Darrell Daines requested an opinion from the Attorney General's Office in 1984 about who is the chief fiscal officer of the State of Nevada.

**Assemblyman Munford:**

How many employees are there in your office?

**Kathy Augustine:**

We have 45, so our office is larger than the Treasurer's Office. We have four sections: operations; financial reporting; debt collection; and information technology.

**Assemblyman Munford:**

This report is pretty complete. You get a good idea of what you really do there.

**Assemblyman Denis:**

If the two offices were combined, is there not some duplication that could be eliminated, such as computers, personnel, et cetera?

**Kathy Augustine:**

This is the first time I've seen this. In the Treasurer's Office there is only one, maybe two people doing his information technology. We don't have a chief of staff, but I know the Treasurer does. We have a Chief Deputy Controller. The Treasurer also has several top management personnel: Chief of Staff, Chief Deputy Treasurer, two senior treasurers, and several deputies. So, he's fairly heavy in top management.

Most of these people are deputy treasurers ([Exhibit E](#)), except for our IT [Information Technology], and Chief Accountant for Operations. These four chief accountants are ours. You've created a lot of deputies in here. Who are going to be the workers? You've got all management folks on this combined organizational chart.

**Kim Huys, Acting Chief Deputy Controller, Office of the Controller, State of Nevada:**

To expand a little bit on your questions, Mr. Denis, I think one of the chief differences in the information technology area is that we maintain specific applications. We're still working very extensively in COBOL [Common Business Oriented Language] oriented programs that use proprietary software for the financial application. While one might think there would be a lot of duplication



of effort, there really is not. We maintain the database and other things that are specific skills. There might be some small duplication. The major applications programming does not exist in the current staff of the Treasurer's Office.

**Assemblyman Munford:**

Do you think this entire proposal is personal, because of the incident with you in the past? Even though your term ends in 2006, do you feel that this is a personal matter?

**Kathy Augustine:**

I would hope not. This bill is recycled from ten years ago. This bill has come up over and over again every session. You did not address it in the 2003 Session because of the tax package and other things that were going on. You are correct; my term is limited and this does not affect me in the least. I'm here opposing this today, even though at the end of next year, my term will be up and there will be a new State Controller elected in November 2006.

**Assemblyman Seale:**

Let me answer that question. Emphatically, this is not a personal assault. I introduced this in 1995 and got it through both houses. I have attempted on other occasions to push this through, too. There were numerous other occasions prior to my coming on the scene where this legislation was introduced in the past. I want to make it very clear to the Committee, the Legislature, and the citizens that this not a personal vendetta of any sort.

**Kim Huys:**

[Read from [Exhibit H](#).]

I would like to spend a few minutes discussing the detailed functions of the State Controller's Office. First, I want to make an important contrast between the responsibilities of the Controller's Office and the Treasurer's Office. The offices have very different roles. Conceptually, the State Controller's work is focused on accounting and reporting, while the State Treasurer's work deals with the finance activities of cash management, investing, and debt management. In every venue, from academics to professional certification, accounting and finance are separate professions, each with unique skills and qualifications. In this regard we do very different work, with very different focuses and outcomes.

It is important to discuss the technical functions of our Office and the changes we have experienced during the past decade. To put

this in prospective, from 1994 to 2004 General Fund revenue and expenses have increased 137 percent and 182 percent, respectively; we're all doing more work.

[Kim Huys, continued.] The daily activities of the Controller's Office are comprised of dozens of functions that provide control over State expenditures and account for its fiscal activities. At the heart of this effort is the Integrated Financial System (IFS). IFS is comprised of three separate applications. ADVANTAGE Financial is the application that processes all receipts, disbursements, and general ledger activities. This system serves as the "official accounting book of record" and in addition to generating vendor payments and recording cash receipts, provides budget and appropriation control, processes purchasing transactions, tracks fixed assets, records year-end accruals, records grant revenues and disbursements, houses the consolidated vendor databases, and generates 1099 forms.

The accounting information from ADVANTAGE Financial is passed on to the next significant system in IFS—the data warehouse of Nevada (DAWN). DAWN is the information center and provides agencies with current and historical financial information. We began building DAWN in fiscal year 1999 and have established a 10-year retention period with this application. Users have immediate access to the accounting and vendor information in DAWN to various pre-designed queries and reports, along with *ad hoc* reporting tools that allow the user to customize selection criteria and get the specific information they need. The third application in IFS is Vista Plus, an electronic report distribution tool that delivers reports from ADVANTAGE Financial directly to users' desktops through a web portal.

All of these systems that create, store, and distribute accounting information for the entire State are managed and maintained by the State Controller's Office. Implementation, augmentation, enhancement, operation, security of, access to, backup/disaster recovery training, and policy development for all these systems is managed by our Office.

All daily, weekly, monthly, quarterly, and annual processes culminate in creating audited financial statements in the form of a Comprehensive Annual Financial Report. Throughout the year, we

establish accounting policies, review agency accounting work, train accounting personnel, and handle the daily activities associated with paying the State's obligations.

[Kim Huys, continued.] The technical work of the State Controller's Office has changed significantly during the past decade. Implementation of the IFS ushered in a new era of automated, integrated accounting for Nevada. Information that used to take days, if not weeks to compile, is now available in minutes to every fiscal position in the State with the push of a button. Our data processing section has reinvented itself into an information services division that is customer oriented and invested in the value proposition. Our goal is to deliver the right information in an expedient manner to the decision makers of Nevada. More importantly, our charge is to ensure the integrity of this information, while protecting our assets and resources.

Our financial report section continues to manage implementation of new pronouncements from the Governmental Accounting Standards Board (GASB). Since 1993, GASB has implemented 17 new statements and several others are in various stages of draft and review. While not changing as rapidly as technology, governmental accounting and reporting has changed more in the last decade than it has since its inception and is clearly affected by the Information Age. As fast as we deploy the latest technology in systems in order to provide better safeguards on information and assets, someone has found a way to get through them or past them. Technology is a wonderful tool, but you must remember that everyone has equal access to it.

In closing, I respectfully ask this Committee to carefully consider the value of the State Controller's Office and the changes in accounting and reporting requirements that have occurred since the idea of eliminating the Office was first proposed. The charge of the Controller's Office is different from the Treasurer's Office. Separation of the Offices not only provides separation of duties and controls, it allows each respective Office to evolve their areas of expertise in an uncompromised manner, free from divided priorities. It also fosters a healthy spirit of competition and contributes to comprehensive exploration of the issues of financial oversight for the State.

**Assemblyman Seale:**

I understand the difference between the Treasurer's Office and the Controller's Office. You may recall that I've been a CPA [Certified Public Accountant] for almost 40 years now. I keep coming back to this issue of separation and checks and balances that you folks want to talk about. Tell me why that separation, that alleged Chinese wall, didn't prevent the embezzlements that happened in the past.

**Kim Huys:**

One of the key embezzlements occurred in the 1920s between the Controller and the Treasurer also included the participation of the Banking Officer. Nothing is foolproof. The bad guys are out there, and they're working hard. My point of testimony primarily focused on what I believe is the evolution of ideas. I think two good minds elected by the people and working together will come up with even better solutions than one.

**Assemblyman Seale:**

What you have done, and what you do in the Controller's Office, is clearly not going to go away. I've never implied that in any of my introductions of this bill. Those activities will continue. There are economies of scale that can be acquired. We have several positions in each of the offices that would be redundant if those offices were combined. I would also point out that the Treasurer does have accountants, including some CPAs. Their accounting duties are different, clearly. On the issue of internal control, if the Controller and the Treasurer want to conspire, whether they're combined or not combined, there is a high likelihood that it could be pulled off. Although, with the banking community and with the federal government being in the middle with wire transfers, et cetera, I think it would be very difficult.

**Assemblywoman Giunchigliani:**

Everybody will always argue about their territory. That's part of what we take a look at while we're up here in session. Since 1995 we've been trying to think outside of the box. I think there is a way to make this work, rather than looking at opposing it, because we've always done it that way. Checks and balances are there. We have new technologies; we have better training than they did in the 1920s, let alone 1980. The safeguards are there.

The debate really comes down to whether this is necessary. Is the Treasurer necessary? Is a chief financial officer necessary? Should they be elected or appointed? That's all this is about. This has gotten off track of whether or not this could potentially save time, money, and be more efficient. There could be some savings, but not a great deal. I don't think Assemblyman Seale ever

advocated that there is a great deal. But there is an economy of scale and changing positions. We tend not to look at that in government. The last time was 1991 when we really reorganized all of our departments and divisions. Sometimes we need to look at that and that's what this legislation offers us the opportunity for.

**Kathy Augustine:**

In the states where they have combined the two offices, if that's the direction that we are moving in, the investment function has been taken out of those offices, as in Texas. You have a separate board to handle the investments; thereby eliminating your cost savings. You can combine it into one office and get rid of the salary of an elected official, but you can't have one person still handling incoming and outgoing revenue.

**Teresa Moiola, Assistant State Controller, Office of the Controller, State of Nevada:**

We've provided a packet of information to you ([Exhibit G](#)). The purpose of the State Controller's Office and the Attorney General's opinion is in the first section. Under Tab 2 are the duties of the Chief Deputy, the Assistant Controller, and the Executive Assistant. Those positions are not extraneous. There is a list of duties which they perform. In combining offices and increasing the number of staff, you may have to actually add support positions, which neither office currently has, such as a personnel officer, or PIO [public information officer]. Right now these are part of another person's duties, but in an office of a larger scale, you may have to add them. It may create positions as well as eliminating some. I don't know if that has been considered.

Behind Tab 3 are letters from the National Association of State Auditors, Controllers, and Treasurers, as well as their Code of Conduct. Then in Tab 4 there is a comparison to all the other states, which is information the Controller referenced, and might be helpful to you.

**Kathy Augustine:**

We are preparing a list of elected state auditors. You will see on that list that a couple of them say "state auditor." In fact, that state auditor performs the controller's duties in that state.

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

Most of our concerns have been addressed. I was employed with Hewlett-Packard. We have a comptroller and a treasurer. I think it is in the people's best interest to keep these two elected positions.

**O. Q. Chris Johnson, Chairman, Nevada Committee for Full Statehood:**

I believe that we should follow the *Constitution*. We have duly elected constitutional officers: a controller and a treasurer. It makes me nervous that the Legislature would consider abolishing one of these positions, in favor of an administrative position. We have a great deal of taxpayer oversight of the elected positions. When we encounter problems with the federal government, that oversight of administrative positions doesn't get us anywhere. I think we should keep the constitutional offices intact.

**Assemblyman Denis:**

Mr. Seale, this bill is to eliminate the Controller's Office rather than the Treasurer's Office. Why not the other way around?

**Assemblyman Seale:**

It makes no difference.

**Co-Chairman Mortenson:**

We will conclude the hearing on A.J.R. 3 and we will open the hearing on A.J.R. 4.

**Assembly Joint Resolution 4: Urges Federal Government to recognize unsuitability of Yucca Mountain as site for repository to store and dispose of spent nuclear fuel and high-level radioactive waste. (BDR R-199)**

**Assemblywoman Genie Ohrenschall, Assembly District No. 12, Clark County (part):**

A.J.R. 4 urges the federal government to recognize once and for all that Yucca Mountain is unsuitable as the disposal site for spent nuclear fuel and high-level radioactive waste.

Most Nevadans are familiar with the Yucca Mountain Project (YMP) and the State's ongoing effort to defeat it. In fact 70 percent of Nevadans, according to recent polls, remain opposed to Yucca Mountain.

The resolution before you today enumerates a long list of reasons why the Yucca Mountain Project should not go forward. Nuclear waste disposal has proved to be one of the most daunting problems that the country has faced since the Atomic Energy Act was passed in 1954 [42 U.S.C. 1011 et seq.]. There is still not a perfectly good solution. The porous geology and continuous

seismic and hydro-thermal activity of the region makes Yucca Mountain a terrible choice. Things are likely to move and change there in a way that we don't know and can't predict over time.

[Assemblywoman Ohrenschall, continued.] The Department of Energy (DOE) has acknowledged Yucca Mountain's unsuitability through its decision to depend almost entirely on man-made barriers to protect the public from radiation. In other words, the site itself is unsafe and you have to add man-made barriers for protection. That a federal court struck down the EPA's [Environmental Protection Agency] 10,000-year Radiation Safety Standard is evidence that science has been ignored. The decision noted that the Nuclear Regulatory Commission had breached its duty to protect public health and safety, by ignoring the National Academy of Science's recommendation that radiation standards should exceed 300,000 years.

Then there is the economic impact of the fastest growing state in the Union—Nevada—and the fastest growing region within that state. The economic impact would be severe. Various people who are prominent in gaming have made public statements to this effect. Tourism would suffer greatly. Projected annual revenue loss from tourism in the event of the opening of Yucca Mountain as a nuclear repository for permanent high-level waste would be in excess of \$91 million per year.

Yucca Mountain itself cannot handle all of the spent fuel and waste that currently exists at various nuclear sites in the country, not to mention any new waste that might be produced in the future. Single one-site storage for the entire nation is a myth. It can't happen. We have too much spent radioactive waste in too many locations.

The Department of Energy's transportation plan to bring nuclear waste here is inadequate and flawed. Most of the waste and spent fuel destined for Yucca Mountain is stored at sites east of the Mississippi River. It will have to be transported by water, rail, and roadway through hundreds of cities, thousands of communities, and past millions of Americans before reaching Yucca Mountain in Nevada. The consequence of one barge sinking; one truck turning over; one train derailling; or, heaven forbid, one successful terrorist attack that breaches a waste container with an explosive device, is staggering.

Do we want thousands of potential dirty bombs on our waterways, highways, and rail lines for years on end? Often the statement is made that spent radioactive fuel can't be as dangerous as non-spent. Remember that a dirty bomb is one that may not necessarily level homes, and it may not necessarily

kill on impact. What it does is spread radiation and may, in the hands of a terrorist, also spread sources of disease or of poison, so that they're in the atmosphere where people breathe them and may become sickened thereby.

[Assemblywoman Ohrenschall, continued.] This could become a source of death to people in the area who breathe in the product of a dirty bomb. But even more important than that, and before that happens, it would become a source of great panic, which would destroy whatever would be left of our economy.

This winter's flash floods are an example. The flash floods caused extensive damage to rail lines in southern Nevada. Embankments collapsed, and whole sections of track in the Caliente Rail Corridor were washed away. Shipments had to be rerouted through Reno rather than the southern part of the state. Will Reno residents welcome the prospect of several thousand tons of deadly nuclear waste rolling through the middle of their downtown area? I think not.

It's important that, as a state, we stand together and let Congress, the President, and the Nuclear Regulatory Commission know that Nevada is not going to take a chance with the health of our citizens. In addition, because of the geologic formation and the location where the repository is planned to be built, there is very high danger that in the future it might contaminate our water table. Nevada has very large underground rivers that go through it. They would carry the contamination not only through Nevada's drinking water and to our citizens, but wherever these underground rivers go; to states that are around us who haven't even thought they might be harmed by a nuclear repository here.

Two developments took place after the resolution was drafted, and thus have not been included. First, a lawsuit was filed on March 4, 2005, by the Western Shoshone National Council against several entities within the federal government. The Shoshone Council argues that the development of Yucca Mountain violates provisions of the 1863 Treaty of Ruby Valley by the improper use of the land.

Second, legislation has been offered by United States Senator Harry Reid, which would allow the Department of Energy to claim ownership and control of nuclear waste where it is, on-site in the facilities where it was generated. That waste could be guarded there. It's a lot easier to protect something that is one spot, not moving through heavy traffic, and so on. If it stays in one area, that may encourage efforts at achieving cheap transmutation of fuels so that the negative aspects of spent nuclear energy could be removed from the spent material or it could be recycled, rather than creating more and more nuclear waste.



[Assemblywoman Ohrenschall, continued.] Both the Shoshone lawsuit and Senator Reid's proposal proved that Yucca Mountain remains a poorly planned, unworkable solution to the nuclear waste problem. In 2000, the President promised Nevada and the nation that he would follow "sound science" regarding the disposal of high-level and nuclear waste. Not only has science been ignored regarding Yucca Mountain, but social justice and public safety have also gone by the wayside. A.J.R. 4 makes it clear to Congress and the White House that Nevadans remain vigilant and committed to winning the fight over Yucca Mountain and over the possibility of nuclear radiation that would poison our citizens in Nevada, or any other part of this country where a shipment might go wrong. It's for this reason that I respectfully urge this Committee's support of this measure.

We're going to have somebody from Clark County testifying in favor of the resolution, and about three typographical errors. One of them is that the resolution refers to the Nuclear Waste Repository as merely an interim repository. In fact, at the moment it is an interim repository for certain types of waste, but it's proposed to be a permanent repository.

**Bob Loux, Executive Director, Agency for Nuclear Projects, Governor's Office, State of Nevada:**

We are in favor of A.J.R. 4. I would like to offer a couple of comments about where the project is currently. The resolution accurately points out a number of the defects that we know now and highlights the fact that President Bush cut the Department of Energy's budget for Yucca Mountain in half this year. The former project director has recently resigned. Announcements by the acting director indicate that they have advanced the date now to 2017, as the earliest that the repository could be opened.

The National Energy Commission on Energy Policy created by legislation calls for interim storage of nuclear waste at power plants as a back-up to Yucca Mountain. The Association of State Utility Regulatory Commissioners has recently adopted a resolution urging that the DOE be removed from the project and be replaced by a federal entity.

*The New York Times*, *Washington Post*, and *The L.A. Times* have documented that numerous nuclear power plant officials and nuclear executives now believe that the Yucca Mountain Project is not likely to happen, and they want to have any new nuclear power plants de-linked from the need to have Yucca Mountain in place. They believe that reactor storage is sufficient for centuries in some people's minds.

[Bob Loux, continued.] A week ago Friday, the biggest proponent of Yucca Mountain in the United States Senate, Senator Pete Domenici, told the new Secretary of Energy, Samuel Bodman, that he is likely going to be the secretary that has to go find a new site. He doesn't think that Yucca Mountain is going to work out and will take too long. Observers of the program, including the press, the nuclear industry, and others, are all of the opinion that Yucca Mountain is not likely to work out. Alternative plans are being made for extended "at-reactor" storage. Senator Reid's bill is going to propel that along. The project is just about over and this resolution will be very helpful to continue Nevada's voice in opposition.

**Assemblywoman McClain:**

I hope you are right and this goes away, but in the meantime we need to keep on protesting until we know that it's really gone.

**Co-Chairman Mortenson:**

I commend Assemblywoman Ohrenschall and Mr. Bob Loux, who has been working on this for years.

**Dan Musgrove, Director, Intergovernmental Relations, Office of the County Manager, Clark County, Nevada:**

We also want to thank the sponsor of the bill for bringing it forward. Our amendment ([Exhibit I](#)) is strictly housekeeping. We certainly don't want our amendment to slow down the bill. We just want it to be accurate as it moves forward.

If you look on the first page of the bill, line 10, it talks about Yucca Mountain as suitable for the "nation's." We want to make sure that we put in the words "nation's only" and then, as she [Assemblywoman Ohrenschall] mentioned earlier, "permanent repository for high-level radioactive waste and spent nuclear fuel." We think that is more accurate as to what the federal government is essentially trying to shove down our throats.

On page 3, we have a clarification as to what's called the Caliente Rail Corridor. On line 25, it just says "the Caliente Corridor." We ask that we put in the verbiage "an area identified as the Caliente Rail Corridor," so there's no misunderstanding as to what part of Nevada and what they intend to do.

[Dan Musgrove, continued.] Again, we are very supportive. Clark County has been very involved in assisting Mr. Loux, both on a state and national level. Irene Mavis has traveled to Washington D.C. numerous times.

**Joe Kennedy, representative of the Western Shoshone National Council:**

[Submitted [Exhibit J.](#)] We are in support of [A.J.R. 4](#). The Western Shoshone National Council has filed this lawsuit against the plan of the United States Department of Energy to make Yucca Mountain a dump for nuclear waste for the United States and 41 other countries around the world.

Yucca Mountain is located in the territory of the Western Shoshone Nation, as described in Article 5 of the 1862 Treaty of Peace and Friendship between the Western Shoshone Nation and the United States at Baa Gaa Zoo, also now called Ruby Valley, Nevada. Article 6 of the *U.S. Constitution* states that treaties are the supreme law of the land. This Treaty, then, overrides all the U.S. laws.

Under the Treaty, there were five activities which the United States of America and the Western Shoshone Nation agreed could occur on Western Shoshone Territory—the establishment of settlements, mines, ranches, railroads, and roads. The agent of the United States of America who negotiated and signed the Treaty, the United States Congress, which ratified the Treaty, and the Western Shoshone Nation, all agreed that those were the only five activities which would ever occur on Western Shoshone Territory. If any other uses are contemplated, they cannot occur unless the Treaty is modified by the consent of both the Western Shoshone Nation and the United States.

All across this country, U.S. Federal District Courts have found that treaties with the Indian Nations remain in full force and effect as binding contracts. The Western Shoshone Nation has always abided by the Treaty and regarded the Treaty as a binding, enforceable agreement between the Nation and the United States. We seek by this lawsuit to have the Treaty of Ruby Valley enforced to stop this project that threatens to desecrate our sacred lands. The Western Shoshone Nation does not consent to the use of Yucca Mountain as a dump for the most toxic substance ever created by man. We have a sacred duty to stop this plan by the United States and its Energy Department officials to make Yucca Mountain a storage place for high-level nuclear waste from all over the world. Mother Earth is sacred to all humans. The Western Shoshone Nation holds Mother Earth as such. High-level nuclear waste must not be stored in the breast of Mother Earth at Yucca Mountain.

**Frank Perna, Private Citizen, Clark County, Nevada:**

I hope that the State of Nevada would join the lawsuit with the Western Shoshone Nation. In the past, we haven't always supported them in their efforts.

**O. Q. Chris Johnson, Chairman, Nevada Committee for Full Statehood:**

I have provided information for the Committee ([Exhibit K](#)). The first part is labeled Testimony to A.J.R. 4, March 15, 2005.

I am in opposition to A.J.R. 4. The Yucca Mountain project is my favorite project because of the overall benefits, which I deem will accrue to the State of Nevada, if we can get the politics of prejudice, maligning, and misinformation out of the way so science, engineering, and truth can prevail.

In 1998, I made the tour and was impressed by the thoroughness with which the DOE is conducting experiments to determine the feasibility of spent nuclear fuel storage inside a remote mountain in central Nevada. Since 1998, I have attended at least three informational sessions in Elko. One of the sessions featured former Governor List, who represents the nuclear industry in this matter. I learned more, and was even more impressed with the feasibility of this site at each of the informational sessions which I attended. There is one very important aspect in the objection to the Yucca Mountain Project which needs to be addressed here—the objection of radical environmentalists who do not want to see the United States obtain an abundant source of cheap power for fear of what we'd be able to accomplish with it.

You can see some comments ([Exhibit K](#)) that I have included with this. Those environmentalists wish to see the United States reduced to a third-world country by way of the Kyoto Protocol, higher and higher fossil fuel energy prices, and the exportation of industry to cheaper labor markets. Thanks to those environmentalists and unwitting politicians, the U.S. economy has been converted from an industrial society utilizing natural resources, to a service-based economy, which is based on nothing substantial as far as creating wealth or sustaining prosperity.

Page 4 of my handout ([Exhibit K](#)) might help to clarify what I'm doing here today. The United States can use 200-300 nuclear powered electric generating plants to reduce old, worn-out, and inefficient, natural gas, coal, and fuel-oil generating facilities. We have nuclear energy resources for a few hundred years of electrical generation, so we need to save the fossil fuels for transportation and the domestic heating market.

[O. Q. Chris Johnson, continued.] Additionally, the successful use of the military nuclear energy and the need for a safe repository for the spent fuel from our aircraft carriers, submarines, and other naval craft. Perhaps in a few years, merchant ships will be powered with nuclear-fired boilers.

Listening to some of the testimony here today, I don't believe Yucca Mountain is dead at all. I think that the Department of Energy will proceed with their plans. I believe that Yucca Mountain will become a reality and that we all stand to benefit greatly from it. [Read from page 5 of [Exhibit K](#).]

- Page 1, lines 1 through 6: The challenges to storage of spent nuclear fuel would be less daunting if Nevada state politics were removed from the overall equation.
- Line 7 through 10 and page 2, line 1 through 4: If the objections of the political leaders of Nevada had merit, the President might have reason to listen, but all I hear is the NIMBY, not in my back yard, excuse. The spent nuclear fuel is less hazardous and easier to handle and store than propane, chlorine, ammonia, and other chemicals which are handled routinely.
- Page 2, lines 5 through 10: As I stated above, this material is less hazardous than chemicals being handled routinely and without panic. I view the socio-economic, environmental, public health, and safety concerns to be politically motivated rather than a scientific concern.
- Lines 11 through 15: From what I have read and studied, any geologic activity in the area is of no major concern. It was pointed out in a meeting with representatives from the YMP that a rare incidence of earthquake activity might be felt outside Yucca Mountain, but would be barely noticeable inside the Mountain. Hoover Dam is much more vulnerable to seismic activity than Yucca Mountain.
- Lines 16 through 21: It's been pointed out that geologic faults run parallel to Yucca Mountain, not perpendicular. The storage casks are indestructible. Ground level water is at 1,000 feet below the mountain, so contamination of the ground is impossible.
- Lines 23 through 29: I believe the engineered barriers will act in concert with natural barriers to provide additional protection.

- Lines 30 through 35: 77,000 metric tons of spent fuel transported over a ten-year period amounts to 29 tons per day. [That is] perhaps two truckloads or one rail car load, hardly a consequential figure when compared with the many tons of far more hazardous materials conveyed without fanfare or notice by the general public. 10,000 years of on-site storage of nuclear spent fuel does not agree with the recommendation found in the next paragraphs, which opts for a standard of 300,000 years. On-site storage of spent fuel creates a target for terrorists and poses a real security problem in guarding the material.
- Lines 36 through 43: Why be concerned about 10,000 or even 300,000 years? The spent fuel is a valuable commodity which can be reconstituted to provide radioactive isotopes for industry and medical needs. This feature can create a valuable industry for that area of the state.
- Page 3, lines 1-3: In addition to medical isotopes, the spent fuel can be reconstituted to make more fuel to provide the energy to generate more electricity. Once Nevada quits fighting the project, there is a potential for Nevada to generate huge amounts of super-clean electricity for export to energy-starved states and reduce America's dependence on fuel oil, natural gas, and coal for power plant fuel.
- Lines 4 through 8: The capacity for storage of spent fuel at the Yucca Mountain project is only planned for an eventual 105,000 metric tons. There is room inside the mountain to expand the site by drilling more tunnels and caverns; so it's by no means limited to its storage capability—it just needs more construction.
- Lines 9 through 14: The potential for terrorist threat is greatest when spent fuel is stored on site. One underground storage facility reduces security costs significantly.
- Lines 15 through 19: What deaths or injuries? To my knowledge there have been no accidental deaths related to the handling of spent nuclear fuel. It just isn't that gross. People who have worked at nuclear sites tell me that if you get some of the dry powder—in this case palletized—on your body, you take a shower, wash it off, change clothes, and go back to work. It is that simple.

- Lines 20 through 24: The population mentioned in the next paragraph is exposed to far greater hazards from propane, chlorine, ammonia, and various acids than they will ever be from transporting spent nuclear fuel.
- Lines 25 through 30: If a railroad cask of spent fuel were to fall off a railcar and wind up in a river, it would just have to wait there until a crane could be brought around to pick it up, put it back on a rail car, and send it on its journey. It is not a big deal.
- Lines 31 through 35: There would be no stigmatizing effects of the Yucca Mountain Project if the politicians and press would just be quiet. Let science and engineering prevail, so all of us could enjoy the benefits of lower taxes caused by a viable new industry in a remote section of Nevada. Spent nuclear fuel can be regarded as a new-found valuable resource for Nevada, as valuable as gold, once the full potential for its use is recognized and utilized.
- Lines 36 through 40: I listened to a talk show from Las Vegas one morning, while driving from Carlin to Eureka. The host interviewed tourists with questions about the reaction to the Yucca Mountain Project. The tourists were totally unconcerned. But Las Vegas citizens called in to complain about the project. After about one half hour of tourist interviews with no objections, the host told the Las Vegas complainers that if they didn't like the Yucca Mountain Project they should just move to some other place.
- Page 4, lines 1 through 3: I believe this bit of information is pure hyperbole, possibly generated by the Nevada Nuclear Projects Office, whose sole aim, I believe, is to incite public opinion against a worthwhile, viable project, and such testimony has no value or credibility in this resolution.
- Lines 5 through 10: This was an interesting observation, but I believe it is unimportant.
- Lines 11 through 15: According to a spokesperson for the YMP, the cutbacks in money are not a setback for YMP, but were anticipated because less money was requested for the Project in this Fiscal Year.

- Lines 16 through 31: This is dramatic hyperbole, which says nothing and means nothing. One opinion according to Congress and Jim Gibbons is that no nuclear generating plants can be built in America until a safe place for spent fuel storage has been built and put to use. I believe YMP is the correct site and the fighting should stop. Resistance to the YMP is bad for Nevada and bad for America.
- Lines 32 through 37: I go around the state to consult the silent majority in my travels. I challenge the 70 percent figure mentioned here. According to what I have heard, it would be safer to say, perhaps, 7 percent may be opposed to YMP. It all depends on who's being polled and how the questions are posed.
- Lines 38 through 43: This paragraph defeats the entire resolution. The condition of the site directly adjacent to YMP is the Nuclear [Nevada] Test Site, where nearly a thousand detonations occurred, either aboveground or belowground—mostly belowground. You have to drive through the Nuclear Rocket Facility, where nuclear rockets were tested, to get to Yucca Mountain. There is no other site in the United States that is more perfectly suited for the storage of spent nuclear fuel. It's compatible with the area.
- Page 5, lines 1 through 3: Spent nuclear fuel is not the deadliest substance known to mankind. There is no wet, slimy goo that is going to rot your skin before you can get it washed off.
- Lines 4 through 11: Presently, the spent fuel is stored in unsafe containers located in pools—submerged in water. This is not safe storage because the water will eventually corrode the containers. The only safe place for storage is the guaranteed dry storage inside Yucca Mountain Project.
- Lines 12 through 17: I highly recommend that this Committee kill this resolution in order to prevent it from being an embarrassment to Nevada before an astute President, and, further, astute members of Congress—in addition to our delegation. I consider this resolution to contain information which is untruthful and skewed towards a political end which may satisfy a few well-placed individuals, but does a much greater injustice to the economies of the people of Nevada and the people of the United States.



**Co-Chairwoman Koivisto:**

Have you ever been to the Hanford Reservation in Washington State? There is a bunch of nuclear waste up there. I think the people that live in the Tri-Cities area and along the Columbia and Snake Rivers might disagree with a few points you just made.

**O. Q. Chris Johnson:**

That's quite possible.

**Co-Chairwoman Koivisto:**

What happens to water that runs through the mountain?

**O. Q. Chris Johnson:**

It doesn't.

**Co-Chairwoman Koivisto:**

Yes, it does.

**O. Q. Chris Johnson:**

These small caverns inside the mountain, which are supposed to hold the casks for the final repository, generate heat. I've heard that the heat may grow to the extent of 350 or 360 degrees. The boiling point of water is 212 degrees. So these casks, generating heat inside these caverns, have a tendency to push the water away, it vaporizes, and it's pushed back. Consequently, there's no possible contamination or harm from water that is present; and the casks are impervious to water.

**Co-Chairman Mortenson:**

The casks are impervious for awhile, and we don't know what "awhile" is.

**O. Q. Chris Johnson:**

If you're dealing with stainless steel and some more exotic metals—I'm sure you know what stainless steel is like.

**Co-Chairman Mortenson:**

They have titanium drip shields, which we feel will corrode and would allow the water to get to the containers.

**O. Q. Chris Johnson:**

Yes, right. There has to be some other associated compound or chemical in order to create that process. I can only say that so far I've seen nothing in the

presentation by any of the Nevada DOE [Nevada Department of Energy] people regarding Yucca Mountain Project that gives me any cause for concern.

**Co-Chairman Mortenson:**

You can play with a cold fuel rod, one that has not been in the reactor, all day long. It contains uranium oxide, which is an alpha emitter and is stopped by the stainless steel, and you get nothing. You get no radiation—an insignificant amount. But if you stay around a hot fuel element for a couple of minutes, you are dead. You have acquired your 450 rem of radiation. You won't die that fast, but you're dead, walking around for a week or so.

**O. Q. Chris Johnson:**

I have to fall back on what people who have worked in these plants have told me. If you're exposed or if you get any of the material on you, go take a shower, change your clothes, and go back to work.

**Co-Chairman Mortenson:**

That's the cold fuel, not the hot fuel. The hot fuel has incredible radioactivity.

**Assemblywoman McClain:**

First of all, our Chairman is a nuclear physicist. Secondly, I am so happy that this is your opinion, and it's nice that you get a chance to voice it, but I absolutely disagree with you.

**Co-Chairman Mortenson:**

Thank you very much for your testimony. We appreciate it and I appreciate your taking the time to come up here and talk about it. There are all sides of an argument and if you feel that strongly, you need to do it.

**Judy Treichel, Executive Director, Nevada Nuclear Waste Task Force:**

I would like to say that the Task Force is not a NIMBY organization. We are not looking for another state in which this waste can be dumped. We just believe that Yucca Mountain is a bad site. As Mr. Loux stated, at a recent Senate Hearing, Senator [Pete] Domenici of New Mexico told the Secretary of Energy [Samuel] Bodman that he wanted a full review of the Yucca Mountain Project to determine if now is the time to begin considering other options. This resolution appropriately meshes with that Senator's directive to the Secretary.

One of the Department of Energy's public handouts states that the United States has determined that the best option for isolating highly radioactive waste is deep geologic disposal. Yucca Mountain cannot isolate these wastes permanently. Existing seismicity, the possible volcanism, the fractures in the

mountain, and the rapid movement of groundwater toward Amargosa Valley make Yucca Mountain an unsuitable site. Yucca Mountain is not deep geologic disposal. As it's designed, the waste would be placed at an elevation that is 1,000 feet higher than the people living in Amargosa Valley, the direction of the groundwater. It's a farming community, and home to the state's largest dairy. They share the groundwater with Yucca Mountain.

[Judy Treichel, continued.] Had the Department of Energy not gotten rid of the qualifying and disqualifying conditions in previous guidelines, Yucca Mountain would have been disqualified for the rapid movement of groundwater under and through the mountain. This resolution urges the federal government to recognize plain reality, and should be passed.

**James Muth, Private Citizen, Elko County, Nevada:**

I'm a Certified Professional Geologist, and have been for over 30 years. I reviewed A.J.R. 4 only yesterday afternoon. Coincidentally, I submitted this letter ([Exhibit L](#)) to the *Elko Daily Free Press* Editor yesterday, late morning. I received A.J.R. 4 after that and did not have time to evaluate it. However, this letter coincides with the thing we're discussing.

Attorney General Sandoval said that the Yucca Mountain "dump location" is a volcano that sits on an earthquake fault above an aquifer. Yucca Mountain is not a volcano. It was formed by volcanic ash from a volcano miles away and that volcano has since collapsed into a caldera; it's dead. The inference that volcanic activity may erupt again is absurd. It won't happen there any more than it would happen in Las Vegas.

It is no wonder that nonscientific people from Nevada are so opposed to the repository since nearly everyone calls it a "dump," including the Attorney General and the press; naturally, it frightens everyone. Originally the resistance to storage at Yucca Mountain was conceived politically, without any scientific background. Yucca Mountain is, of course, not a dump. It is a facility designed to store spent nuclear fuel, a very valuable commodity, so that it can be recovered and recycled just as it is in Europe, Japan, Russia, and other countries of the world. Japan actually ships spent nuclear fuel through the Panama Canal to England to be recycled and shipped back. So far, no injuries.

Mr. Sandoval also says that waste storage tanks could fail within a hundred years, causing high-level waste material to leach into the groundwater. The material is not going to leach into the groundwater; it's a solid. The material below it is essentially impervious. There is no evidence that any water has ever leaked into the repository site as it stands now. Scientists, in their wisdom, ran

the tunnel through the mountain and drifted out to the sides to investigate some of the faults. To this date, not a single drop of water has appeared in any of those faults, nor has it appeared anywhere in the repository site; so it is unlikely that any water is ever going to percolate through that. During the worst storms at Yucca Mountain, the greatest penetration of a sample rock was 2 centimeters. Within a few hours of sunlight, that had disappeared. The water in the aquifer below Yucca Mountain dates back to the Ice Age. The water in Amargosa Valley is replenished every year from the mountains. It's very young water.

[James Muth, continued.] I have two errors that I was not able to correct in the letter before bringing it. I would like to clear those up. I have mentioned here that the water is moving slowly northward, away from Amargosa Valley. In fact it is moving southward toward Amargosa Valley, at the rate of 1 centimeter per year. That's not very fast. As a matter of fact, in 10,000 years, that's 328 feet. You can see that these two aquifers are not connected. Here is water that's hundreds of thousands of years old under the site. Water in Amargosa Valley is replenished every year from snow in the mountains. So it is ridiculous to say that water is going to seep from Yucca Mountain to Amargosa Valley. Ninety miles is a long way. What difference does it make if it is ninety miles from the fastest growing metropolitan area, and one of the busiest airfields in the world, as Attorney General Sandoval says? The product could be dumped on the clay beds ten miles north of Las Vegas and no dangerous levels of radiation would occur in Las Vegas.

We are burying it 1,000 feet underground, in a solid state, and it's ridiculous to even consider this 90 miles—90 miles is a long way. If you were to stand by a trainload of this material, in the shipping casks, you would get about as much radiation as you get from your watch. My son is an engineer in Oakridge, Tennessee. A year ago a truckload of sulfuric acid turned over in Knoxville [Tennessee]. The hazmat [hazardous materials] people came out in their moon suits. They evacuated the area for only a three block radius—six blocks. Someone asked the hazmat people what they would do if that were nuclear waste. They responded that they'd drive out there in a truck and pick it up. You can see how unconcerned they are about this material that has been vitrified in borosilicate glass—and boron is poison to nuclear activity or radionuclides.

I reviewed this and I have an objection to all 20 of the "whereas" and all seven of the resolutions. One, of course, is the fault-zone that surrounds Yucca Mountain; it is ancient in origin. The last major earthquake in the region was long before historic time and probably over a million years ago. The activity

that we see there now is in the magnitude of 1 to 4 on the Richter scale. At that strength, there is no feeling of motion underground. The devastation of faulting is at the surface, like dropping a pebble into a pond of water—you see the ripples, but those ripples aren't underwater. Those ripples won't occur in Yucca Mountain.

[James Muth, continued.] About it being the deadliest substance known to man. In World War I, it was mustard gas. In World War II, gases were developed that could circle the globe and still be deadly; and those gases are still available. The things that are most dangerous to us are truckloads after truckloads of explosives, acids, ammonia, and chlorine. The deadliest substance that we know of right now is tobacco; it kills more people than any other product that we have ever been involved with. So as you can see, [nuclear waste] certainly is not the deadliest product.

Someone has estimated that \$5.5 billion would be lost in tourism; that is an absolute absurdity. If people would quit frightening the public with the use of the term "dump," and the comparisons with Hiroshima and Nagasaki—those were incidents of war and those weren't nuclear fuel. That was high-level uranium and plutonium. Russia uses a system much different than the United States and so they had a lot of deaths in the Chernobyl area. The United States does not use that type of reactor, or that type of generator. At Three Mile Island, nothing happened. To date there have been no accidental deaths of anyone in any nuclear power plant in the 30 years or so that we've been using them.

Third, I put on page 3 ([Exhibit L](#)), top of the first line, "to date more than \$4.5 billion tax dollars..." That's not entirely true. It is tax dollars and user fees. I don't like to quote or say anything that isn't absolutely fact and verified. I sent this letter to the test site last night to make certain that it was acceptable and true. They contacted me this morning and told me about the southward movement of water; in my haste, I made an error.

**Co-Chairman Mortenson:**

I want to tell you that you're right about Three Mile Island. No one died at the time of the accident. The man who wrote my textbook in radiology, who was a Nobel Prize winner, indicated that his investigation for the federal government essentially said that 20,000 casualties will eventually occur as a consequence of Three Mile Island. When you multiply the very small probability of a casualty against the huge population that was in the cloud that moved in all directions from that, the consequence of this calculation was roughly 20,000 casualties over a period of 20 years.

**James Muth:**

The cloud that erupted from Three Mile Island, it is my understanding, was almost nonradioactive, mostly steam. That's the information that I have.

**Co-Chairman Mortenson:**

I wasn't there. I didn't measure it, but I'm quoting him. He was investigating for the federal government.

**Assemblyman Seale:**

You make some interesting and compelling arguments in your testimony. It all contravenes with what we've been reading and hearing about Yucca Mountain for years. Why is it different?

**James Muth:**

Nevada Nuclear Projects Office was conceived politically. Mr. Loux and his associates were hired specifically to defeat the project. I have spoken to Mr. Loux's associate; I rode on the bus with him to Yucca Mountain one time. He said that that was their sole purpose—to defeat the project. Although they probably did not lie, and maybe did not misrepresent, they only publish and talk about things that exist. A classic example of that is the water under Yucca Mountain, which is thousands of years old and comparing it to the water in Amargosa Valley. There's no connection between them; they're not related at all. Amargosa Valley exists and this water is moving toward Amargosa Valley, but at a centimeter a year. That's been measured at the test site.

**Peggy Johnson, Executive Director, Citizen Alert:**

[Read from [Exhibit M.](#)] We are a 30 year-old statewide organization whose primary issue has been fighting the proposal to transport 70,000 tons of the most dangerous substance known to humankind across 43 states in order to bring it to our state and put it in a facility that we call "leaky, shaky Yucca Mountain," and what the native tribes for generations have called "Moving Hill."

I would like to start by thanking the sponsors of this legislation for introducing A.J.R. 4. It is important for Nevadans to be consistent in our opposition to this fatally flawed project. The scope of this resolution is right on target. Yucca Mountain is scientifically, legally, and fundamentally wrong. The Yucca Mountain Project solves nothing and Nevada is unjustly faced with this tremendous burden. We will send the DOE and the nuclear industry the strong and firm message that Nevada has been, and continues to be, united against this terrible project.

I am not a scientist. I am all about politics and Yucca Mountain is all about politics; and it is about money—but not for us. There will be those people you will hear saying that we must negotiate, and we ask, for what?

[Peggy Johnson, continued.] Let me share what Citizen Alert has learned about how this government negotiates. New Mexico was a case study in why not to negotiate with the federal government for benefits, in exchange for acquiescing in the location of a radioactive waste disposal site, otherwise known as a dump. While the city of Carlsbad, where WIPP [Waste Isolation Pilot Program] is located, may have realized some modest economic gains as a result of WIPP, the overall history of the DOE's relationship with the state of New Mexico on the WIPP project over the past 20 years or more has been of deception and broken promises.

DOE has abrogated almost every commitment it made to the State. What benefits New Mexico was able to obtain had to be extracted in spite of DOE through litigation and external Congressional pressure. The fact that New Mexico received a mere pittance in exchange for going along with WIPP despite having the powerful Senator [Pete] Domenici serving on a key appropriations committee is even more telling. When the WIPP project, a repository for plutonium-contaminated lower level radioactive waste, otherwise known as a dump, was first proposed, DOE promised New Mexico a veto over the project. As soon as the state signed on, DOE reneged on that commitment.

DOE initially promised that all their shipments would be by rail, thereby keeping impacts to a minimum. Instead, DOE developed an all-truck transportation program. In 1980, New Mexico entered into an agreement with DOE, stipulating that the state would not oppose WIPP in exchange for a promise from DOE to consult and cooperate prior to beginning any major program milestones. The ink was barely dry on the agreement when DOE, without consulting the state, announced that it was proceeding with WIPP construction, forcing the state to seek redress in the courts. Even after the original agreement was modified to one that was overseen by the court, DOE continued to violate its provisions for prior consultation. DOE initially agreed to provide New Mexico with over \$200,000 for highway and infrastructure improvements, but almost immediately reneged on that commitment. It was only

through the intervention of New Mexico's powerful Senator Domenici that \$20 million per year for ten years was eventually set aside as a condition of the WIPP Land Withdrawal Act of 1996. Without the personal intervention of this Senator, New Mexico would not have received even this small amount of funds. Despite the statutory directive in the Land Withdrawal Act, DOE proceeded to use the annual highway funds as leverage to interfere with New Mexico's oversight and regulatory authority over the project. As recently as 1999, DOE suspended payment of congressionally mandated highway funds for that year over a regulatory dispute with New Mexico's Environmental Department, costing the State over \$7 million in lost bond revenues.

[Peggy Johnson, continued.] Most recently, in a dispute over funding, DOE summarily eliminated all funds for New Mexico's Technical Oversight Agency for the WIPP program, putting the agency out of business almost immediately. This was done even though DOE's commitment to fund New Mexico's independent oversight program was a cornerstone in the deal that won state support for the WIPP project. DOE's relationship with New Mexico over WIPP has been characterized as one of empty promises and is prophetic as to what Nevada can expect if the state is foolish enough to believe DOE and nuclear industry assertions about all the benefits Nevada can realize from the Yucca Mountain Project. There are not, and there will never be, any benefits for Nevada in storing nuclear waste. Some of our neighbors have formed a Citizens Group for a Better Nevada. We ask, "Better for whom?"

**Co-Chairman Mortenson:**

You have very informative remarks. I'm sure that answers a lot of questions, too.

**Irene Mavis, Planning Manager, Department of Comprehensive Planning, Clark County, Nevada:**

Dan Musgrove accurately explained the amendments that we'd like to see to A.J.R. 4. We hope that those will provide some additional clarification that we felt was necessary. Clark County commissioners have been opposed to the Yucca Mountain Project since as early as 1985. The resolutions passed by the Board of County Commissioners very closely align with A.J.R. 4.

Other speakers have characterized some of the studies and work that have been done by the State and counties within Nevada as "hyperbole" or perhaps not



valid or credible. The issue of stigma and the issue of health effects and socioeconomic impacts, including impacts to property values, were actually acknowledged and addressed in the Department of Energy's final Environmental Impact Statement (EIS) for the repository. I'm not sure if those on the Committee were aware of that, but the draft addressed them somewhat differently. In the meantime, the State and the counties put forward some additional information that was then reflected in the final environmental impact statement; that's very important. Clark County did some tourism study back in 2001, right after the September 11 attacks. We worked in conjunction with UNLV [University of Nevada, Las Vegas] on a scientifically valid study that showed there would be a dramatic decrease in tourism potentially as a result of a transportation accident. The Department of Energy, in fact, in their final EIS, also acknowledged potential for transportation accidents. This isn't something we're making up or that we're over dramatizing. Those are acknowledged impacts, not only by the federal government, but also by the citizens and visitors to Clark County and southern Nevada.

[Irene Mavis, continued.] We have assessed public safety impacts as a result of the Department of Energy's Transportation Plan. We believe that, because of the structure and regulations as they exist now and federal law related to the repository, the potential public safety impacts would be one of the largest unfunded mandates ever experienced by southern Nevada, borne exclusively by the taxpayers.

As far as science and technology, if those were non-issues, we don't believe that the Nuclear Waste Technical Review Board and the Advisory Committee on Nuclear Waste would still be concerned about them in studying earthquakes, volcanoes, corrosion, and the flow of water through the repository.

**Assemblywoman Ohrenschall:**

Attorney General Brian Sandoval, as you know, has been active in litigation for the State of Nevada against the repository. He did indicate that he would be sending a letter from his office in support of the resolution. I haven't received it yet, but will provide it to the Committee as soon as we do it.

**Kaitlin Backlund, Legislative Advocate, representing the Nevada Conservation League:**

We're a nonpartisan, nonprofit organization dedicated to balanced and sensible conservation policy here in the state of Nevada. We urge your support of A.J.R. 4. We also are in agreement with Clark County on the proposed amendment. We would urge the Committee to pass this through as soon as possible.

**Thomas Jefferson, Private Citizen, Elko County, Nevada:**

I am opposed to your passage of A.J.R. 4. Dr. Eric Skousen wrote the book *The Nuclear War*, which is probably the most informative handbook for laymen, such as me, that I've ever seen. As a resident of Nevada for about 40 years, I am for the imposition of a repository in Nevada, whether or not it is at Yucca Mountain or how it's done. I won't try to argue the merits there. I don't believe that anything should be placed underground for one simple reason. You shouldn't try to build something that lasts tens of thousands of years if you don't even plan to be around. We don't even know if any of us will be around here that long.

However, I do recognize fully the value of this nuclear waste. In 1976, when Dr. Skousen wrote his book, *The Nuclear War*, it was their estimation that the value of nuclear waste, based on the prices of U238 [uranium] at the time, was \$30 trillion. Nearly 30 years later, we're talking about taking the world's supply of nuclear waste into Nevada. If you multiply that by a factor of 10 for inflation, this dwarfs the value of the oil in the North Slope or the Mackenzie River Delta, even though the Mackenzie Delta is estimated to have ten times the oil that ever existed in North Africa or the Middle East. This is an enormous amount of energy. The State of Nevada has dragged its feet over 30 years, they should have entered into a contract with the United States government all along to make sure they hadn't used up their political capital. We should have gotten in on this deal from the ground floor, and I think they still can. But you can't be timid about it. I think you should go for Yucca Mountain, but in a way where you guys have a say in it. You should do it for the state of Nevada.

When you start talking about \$30 to \$300 trillion, you're talking about money where a Nevada resident would never have to pay tax of any sort in this state. It would make it a state where everyone wants to live. As far as the scare tactics on this nuclear waste, in my estimation, it is a ridiculous contention. This waste doesn't get up and walk. If you took one of the casks, broke it open, and dropped it on the ground, it isn't going to walk anywhere. Permeation is a thing that takes hundreds of years. I appreciate your listening to me and I say it's time that the State of Nevada makes like a Braer Rabbit and be thrown in the briar patch of the nuclear question. All of you guys should get involved with it. There's money here, it's big money, and it's not just for contractors. It's big money for the state of Nevada in the form of tax revenues on this stuff, for income revenues. I think you've dragged your feet and I hope you haven't used up your capital over all these years.

**Assemblyman Sibley:**

I don't think there is any price tag you could put on the quality of life in Nevada for my children and their future.

**Thomas Jefferson:**

I don't either. My children and grandchildren live here, too, but I think you've vastly overstated the problem. You could dump this material on the ground today and it doesn't get up and walk. Are you going to stand there and throw handfuls of it at your children and grandchildren? I'm not going to. But this stuff could be handled in a very effective, scientific, and orderly fashion and made into usable fuel. That's the whole idea behind it. Make useable fuel. Don't store it. Don't plan on tens of thousands of years—make it into useable fuel and that way we can all benefit from it.

Let's talk about the War [World War II]. We had Hiroshima and Nagasaki. They did a 30-year study on the survivors over there, tracking the incidence of cancer and other diseases. As late as 1984, the incidence against the atom down there was .000001 and happened to have 180,000 survivors, but one incidence of cancer. One case of cancer out of 180,000 people.

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

I've long been against Yucca Mountain and I'm in favor of the resolution. My major objection is based on state sovereignty. In 1993 and 1995, the Nevada State Legislature passed Senate Joint Resolution 27. It was later put on the ballot as Question 4, in 1996. It was to amend the ordinances of the State of Nevada. In that, there are some significant statements that apply to this issue of Yucca Mountain. It says, "Whereas the intent of the framers of the *Constitution of the United States* was to guarantee each state sovereignty over all matters within its boundaries except for the power specifically granted to the United States government as agent of the states. And, whereas the exercise of dominion and control of the public lands within the state of Nevada by the United States works a severe, continuous, and debilitating hardship upon the people of the state of Nevada."

I think those certainly apply to this issue of Yucca Mountain. The people of the state of Nevada, whatever their opinions, have not been able to design their own destiny in this state, because we lack sovereignty. One of the issues I have with A.J.R. 4 is that it doesn't tell the federal government to give up the idea of Yucca Mountain entirely, if that is the will of the electorate in the state of Nevada, and the will of those who represent us. We have a responsibility to protect the sovereignty of the state of Nevada. The *United States Constitution*, in Article 1, Section 8, clause 17 requires that the federal government purchase,

by consent of the legislature of the state, any land within the state. I think the federal government is completely out of bounds in their control of our destiny in the state of Nevada.

If you'll look at the little booklet I handed out, it's an earthquake preparedness booklet ([Exhibit N](#)). On page 2, you can see a frequency report of the major earthquakes in Nevada. Nevada is the third most seismologically active state in the nation after Alaska and California. On the next page (page 3 of [Exhibit N](#)), you'll see a picture of Nevada with all the fault lines. I hope that not only will you move forward with this, but you will bring our state to recognize that we have an obligation to state sovereignty. This question overwhelmingly passed by 68 percent on the ballot. The arguments for passage said, "The intent of the founding fathers of this nation was to guarantee that any new state admitted to the Union would be treated in the same way and placed on an equal footing with the original states."

Of the 50 states, only 27 were required to disclaim all right and title to their lands. This means that we have not been treated the same as Virginia or Pennsylvania and these other states. That's one of the reasons we have this Yucca Mountain problem at all, because we have not, as a state, as a Legislature, as an Executive Branch, as a people, exerted our constitutional responsibility to assert state sovereignty. That would solve Yucca Mountain, because we would be determining our own destiny.

**Joe Johnson, Legislative Advocate, representing the Toiyabe Chapter of the Sierra Club:**

We strongly support this measure. We feel that the whereases and resolutions are clearly stated. To speak for myself and not for my client, I am a registered geologist in the state of California, and a professional geologist in this state. In my professional opinion, Yucca Mountain is in a seismically active area, as is most of the western part of the state. It is also in an area where, in the time frame of long-lived, high-level radioactivity; in the time frame of geologic time, there have been recent volcanic events within miles of Yucca Mountain. This is not to say that the storage site is actually subject to a volcanic event, but certainly it is a probability.

Lastly, the issue of weather—we talk about it being dry and desert now, but 10,000 years ago, Nevada was a very different climatological area. You can drive out to Fallon and see the beach lines on the hillsides that are within the time frame when the Western Shoshone were here. This is a shorter time frame than what we are looking at for this long term, high-level radioactivity. The site is near the Test Site, where there have been large numbers of

atomic explosions; all of those atomic explosions produced less long-term, high-level radiation than is involved in these proposed high-level fuel sites.

**Terry Hickman, President, Nevada State Education Association:**

The transportation nuclear race through Nevada is something the Nevada State Education Association has long opposed. There are thousands of students who attend schools within one mile of the highways that will carry the nuclear waste. If you reach out two or three miles, you find that there are tens of thousands of students who will be in potential danger. There is no substitute for safety.

The Clark County School District provides for each student, and for each teacher, plastic and a roll of tape to cover the door to prevent contamination from the air entering the classroom. Can you imagine the effectiveness that would have should there be a nuclear accident on a highway not far from a school? How could we evacuate thousands of students from Reno or Las Vegas? We have heard the transportation might only occur when schools are not open. High schools open at 6:30 a.m. and many events don't end until 11 o'clock at night. There will be a very narrow window of transportation through Nevada.

We believe it requires perfection to transport nuclear waste by road or rail. That is currently not a standard that either of those industries can say they maintain. Although Las Vegas is a city that receives much attention because Yucca Mountain is within 100 miles, let us also not forget that Reno, Sparks, Winnemucca, Battle Mountain, and Elko are also cities where many schools are very close to Interstate 80. We support A.J.R. 4. Just because we live in a state that is built upon the gaming industry, we should not gamble with our future and require Nevada's children or citizens to live in constant danger of an accident that would forever change our state.

**Assemblywoman Giunchigliani:**

Thanks for reminding me about the duct tape. It is a joke and it's absolutely a waste of money and time. It's called Shelter in Place. It's supposed to stop fumes from coming in. It might be something we ought to take a look at in [the Committee on] Education this Session. It's shameful and it gives a false image to the kids, let alone anybody else.

ASSEMBLYWOMAN GIUNCHIGLIANI MADE A MOTION TO AMEND AND DO PASS BY ADDING CLARK COUNTY'S PROPOSED AMENDMENT AND ADDING ASSEMBLYMAN SIBLEY AS A SPONSOR.

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

**Assemblywoman Giunchigliani:**

I think it's pretty clear. I want to thank the gentleman coming from Elko. Our process does work. Sorry about the late notice; sometimes that's happening this time around because we have no bills out there. Whether we agree or disagree, at least the public comments were brought forth and we appreciate that.

**Co-Chairman Mortenson:**

I commend you for coming, even though you were in the minority. People deserve to be heard and you all are very publicly spirited people.

THE MOTION CARRIED. (Mrs. Angle, Mr. Conklin, Mrs. Gansert, Mr. Holcomb, and Mr. McCleary were not present for the vote.)

**Co-Chairman Mortenson:**

If there is no further business coming before the Committee, then the Committee is adjourned [at 6:39 p.m.].

RESPECTFULLY SUBMITTED:

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Sarah Gibson  
Transcribing Attaché

APPROVED BY:

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Assemblyman Harry Mortenson, Co-Chairman

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

<b><u>EXHIBITS</u></b>			
<b>Committee Name: <u>Elections, Procedures, Ethics, and Constitutional Amendments</u></b>			
<b>Date: <u>March 15, 2005</u></b>		<b>Time of Meeting: <u>3:53 p.m.</u></b>	
<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
***	<b>A</b>	*****	Agenda
AJR 11 72nd	<b>B</b>	Michelle Van Geel, Committee Policy Analyst, Legislative Counsel Bureau	Work session document
AJR 11 72nd	<b>C</b>	Michelle Van Geel, Committee Policy Analyst	Comments of Interim Chancellor James E. Rogers
AJR 13 72nd	<b>D</b>	Michelle Van Geel, Committee Policy Analyst	Work Session Document
AJR 3	<b>E</b>	Assemblyman Bob Seale	Proposed organization chart
AJR 3	<b>F</b>	Kathy Augustine, State Controller	Copy of testimony in opposition
AJR 3	<b>G</b>	Kathy Augustine, State Controller	Informational packet
AJR 3	<b>H</b>	Kim Huys, Acting Chief Deputy Controller	Copy of testimony in opposition
AJR 3	<b>I</b>	Dan Musgrove, Clark County, Nevada	Proposed amendment
AJR 4	<b>J</b>	Joe Kennedy, Western Shoshone National Council	News Release
AJR 4	<b>K</b>	O.Q. Chris Johnson, Nevada Committee for Full Statehood	Testimony in support of AJR 4
AJR 4	<b>L</b>	James Muth	Letter to Editor
AJR 4	<b>M</b>	Peggy Maze Johnson, Nevada Citizen Alert	Copy of testimony in support of AJR 4
AJR 4	<b>N</b>	Janine Hansen, Nevada Eagle Forum	Pamphlet, <i>Earthquakes in Nevada.</i>