

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

**Seventy-Fifth Session
March 19, 2009**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Harry Mortenson at 3:52 p.m. on Thursday, March 19, 2009, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Harry Mortenson, Chair
Assemblywoman Ellen Koivisto, Vice Chair
Assemblyman Ty Cobb
Assemblyman Marcus Conklin
Assemblywoman Heidi S. Gansert
Assemblyman John Hambrick
Assemblyman William C. Horne
Assemblyman Ruben J. Kihuen
Assemblyman Harvey J. Munford
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom
Assemblyman James A. Settelmeyer
Assemblywoman Debbie Smith

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Judie Fisher, Committee Manager
Terry Horgan, Committee Secretary
Cheryl McClellan, Committee Assistant

OTHERS PRESENT:

Richard Perkins, Private Citizen, Henderson, Nevada
David Schumann, Chairman, Nevada Committee for Full Statehood,
Minden, Nevada
Lynn Chapman, State Vice President, Nevada Families, Sparks, Nevada
Janine Hansen, representing the Independent American Party, Elko,
Nevada
Julianna Ormsby, representing the League of Women Voters of Nevada,
Carson City, Nevada

Chairman Mortenson:

[Roll was taken and committee rules and protocol explained.] We will begin with Assembly Joint Resolution 6. Mr. Segerblom, please proceed.

Assembly Joint Resolution 6: Proposes to amend the Nevada Constitution to revise provisions concerning legislative sessions. (BDR C-67)

Assemblyman Tick Segerblom, Clark County Assembly District No. 9:

[Assemblyman Segerblom read introductory remarks and an explanation of the bill from prepared text ([Exhibit C](#)) as a PowerPoint was being shown ([Exhibit D](#)).] I have proposed an amendment ([Exhibit E](#)). In the original bill, I proposed that legislators be paid for the entire 120 days in the regular session. I have removed the additional 60 days' pay in my amendment. We legislators are paid for 60 days during the regular session and we would be paid for all 60 days of the even-years' sessions. I have talked with people, and it is quite clear that money is tight. I have removed the pay for the additional 60 days in the regular session because being paid was more a philosophical issue. We are all making sacrifices, so the last thing we want to do is ask for a pay increase.

The packet before you also includes a history of legislative sessions throughout the years ([Exhibit F](#)), and the fate of attempts to pass similar legislation ([Exhibit G](#)). There is also a chart that compares Nevada with the surrounding states ([Exhibit H](#)). I would like to convince you of the merits of my argument, which is that it is time Nevada joined 45 other states and had annual sessions.

Chairman Mortenson:

Are there any questions for Mr. Segerblom?

Assemblyman Cobb:

If we keep adding time to the legislative sessions and having more of them, I am concerned that fewer people will be able to be legislators. One of the really strong points about our Legislature is the diversity of its members. From a private sector perspective, and I know you come from the private sector and can understand what I am saying, I think fewer people are going to be able to afford to come to Carson City if we move to annual sessions. Is that a concern at all for you?

Assemblyman Segerblom:

In my opinion, we are going to bust the 120 days wide open in the future. If there were actually a time period during the even years, we would know we were coming back and we could plan to come back. Sixty days for most people, even for those of us practicing law, is manageable and better than the system we currently have. I feel we are better off having a smaller session that we know is going to happen, and I do not think 60 days is going to wipe anyone out.

Assemblyman Settlemeyer:

You mentioned that Utah has 45-day sessions. Do you think we should respect the wishes of the voters who have said they want us to meet for only 120 days every two years? How about the concept of 60 days and 60 days? Also, what do you think about the idea of reducing the number of bills by half?

Assemblyman Segerblom:

You are asking philosophical questions that I will be happy to answer, but I do not think the voters have ruled on annual sessions for a long time. If this bill passes, maybe we would not need to go the entire 120 days. One hundred twenty days is the maximum length we can meet, but we do not have to serve all 120 days. I find that much of the first month of a session is spent catching up, because we have been gone for two years. If we met every year, we would be able to hit the ground running and get a lot more accomplished. Frankly, the session might end up being shorter than 120 days. I would not mind having a

60-day session and a 90-day session. I think we would be better off having something every year. You have to catch up when you start, and then your projections, invariably, are wrong. We end up with the situations we have had the last two sessions.

Assemblyman Ohrenschall:

Last spring when the foreclosure crisis was really starting to bubble over, I heard from a lot of other legislators who wished we could come up to Carson City and try to do something right then and there. We did not have the power because we are not able to call ourselves into special session. Do you hear comments like that from other legislators who think if we had annual sessions, solutions to problems might not be so remote or have to wait the 18 months?

Assemblyman Segerblom:

What I hear from a lot of legislators is, "I think that is a great idea. I may not be able to say it publicly, but I think it is a great idea." One of the reasons I thought this was a perfect time to bring the bill is the fact that so many legislators are being term-limited out so they can vote their consciences. Also, given the budget crisis, this seemed like a good time to bring the subject up. I know very few people who, in their hearts, do not think we need this. Given the size and complexity of the state, we cannot have the Legislature meet every other year, in my opinion. We need to admit that we are an important Body. We may be a citizen Legislature, but we are pretty sophisticated citizens, and there is no reason to be embarrassed when we say we think we ought to meet and do our jobs. This is not the state it was in 1864.

Assemblyman Hambrick:

Have we ever met fewer than 120 days? If you count the special sessions, a 120-day session is almost a figment of someone's imagination, is it not?

Assemblyman Segerblom:

People who have been here longer than I have could tell you, but I know last time, we actually were done in 120 days but had to go one extra day. I think that was the first time in recent memory we came even close to finishing in the 120 days. Since 1997, we have gone over the 120-day limitation every session. Before that time, we were routinely over 120 days, and the record was 167 days in 1997.

Assemblyman Conklin:

I want to clarify the record. This Legislature has always finished in 120 days, but we have come back for special sessions. We are not authorized to exceed

120 days. If we do not finish in 120 days, the Governor has to call us back into special session. That has happened every time since 1997. It is a complicated process being certain nothing that needs to take place is omitted before we are away for 18 months.

We do not meet often enough, and the problems you have identified, Assemblyman Segerblom, are real. No economist I am aware of can accurately tell us what is going to happen in the next 24 months with any relative consistency, and we budget based on what we think is going to happen. However, the flip side of this is that it is costly for you and me and all of our colleagues to come up here for 120 days. If you worked only 40 hours a week, which I am not sure any of us do—we are probably working close to 60 or 80 hours a week—your compensation is roughly \$8 an hour or less. One might argue that if we work enough hours, our pay is below minimum wage. It costs money to be here. People do it because they believe in what they are doing. They have a passion to do this work. They want to make Nevada a better place. Do we lose some of those people if they not only have to take 120 days off every other year, but also must take an additional 60 days off in the intervening years? What private employer is going to allow a key employee to go to the Legislature every year for a lengthy period of time? That begs the question: Who will be left to run for office? What types of people will we be limited to if we have such a provision? I am not arguing in opposition, I am just throwing the question out for philosophical discussion because it does concern me. If this legislation passes, I would probably decide that I should not run for office any more.

Assemblyman Segerblom:

Committees such as the Interim Finance Committee (IFC) meet a tremendous amount of time during the interim, and they are composed of both lawyers and other people who might not be able to break away. You hit the nail on the head. Most of us are here because we love the process and the state, not because we are here to make money. I think most employers appreciate what we do, but this would probably cut somebody out. The reality is that 120 days is a big chunk of time to begin with.

Chairman Mortenson:

Or, there could be a lot of really good retired people.

Assemblyman Segerblom:

There is something to be said for age and wisdom.

Assemblywoman Smith:

Had you considered how this legislation would affect interim committees? Last interim, the Legislative Committee on Public Lands required a four-week commitment, and that did not include any additional travel time necessary to go to the rural parts of Nevada.

Assemblyman Segerblom:

The 60-day session would probably be more in-depth as opposed to every committee meeting every day the way we do now. It would be tailored to different things. There is a tremendous amount of time spent in the interim, not only by the 63 of us but by a lot of other people as well. I anticipate that the functions during the off year would be brought together in that 60-day period.

Assemblywoman Smith:

I would not relish the idea of having to miss another two months of work in a second year. There has to be some value given to having the time to do what you need to do to be able to accomplish the work. Last session, we worked on fixing that green energy bill. That ended up taking an awful lot of time, but we could not meet to get that work done during normal hours because we were in committee or we had people wanting to meet and talk with us on other issues. It is an all-day commitment from 8 until 5 to get your regular work done. If you want to do anything else, or if you have any big tasks you are working on, the only time left to do it is at night. There is value in being able to spend an adequate amount of time on the projects you are working on such as on your own legislation or hearing from people. We have a lot more citizenry involved than we used to, which is a great thing, but it adds to the volume of our work. With the increase in our population, a lot has changed. There has to be some inherent value in having the time to do the best work you can.

Assemblyman Segerblom:

My biggest surprise since we have been here is the fact that we really do not have any oversight over government. We spend a lot of time passing bills, but we do not ever bring an agency in and grill them about what they are doing. We never find out if the law we passed the session before is working, not working, or needs to be changed. As has been mentioned, the Governor really has a tremendous amount of power. We have to be finished in 120 days, then the Governor decides whether we are or are not going to be in session. As we know, you do not want to give too much power to that particular branch of government.

Assemblyman Ohrenschall:

Speaking of transfer of power to the Executive Branch, do you believe that the three branches of government are coequal the way the system is set up now, or do you think we have delegated a lot of our power to the Executive Branch because of the 18-month periods when we cannot call ourselves into session?

Assemblyman Segerblom:

The last year has been proof that we are not coequal. The day we walked out of here, the Governor said, "You passed a bill, but I am not going to follow through. I am not going to have empowerment schools. I am not going to do this; I am not going to do that." We have no ability to question him. That is part of the nature of the business, I think, but, nevertheless, if we had annual sessions, at least we could call the Governor to account once in a while.

Assemblyman Munford:

Is the power to call ourselves into special session included in this bill?

Assemblyman Segerblom:

No, it is not, but that is the next bill you are going to hear.

Assemblyman Munford:

That could change a lot of things.

Assemblyman Segerblom:

Oregon is using that power to create annual sessions. They are in their regular session right now, but they are calling themselves back in as a test case to see if it works and if the state's citizens like it.

Chairman Mortenson:

Are there further questions? I see none, so we will open the hearing to public testimony. I want to acknowledge one of the Assembly's former Speakers, Mr. Richard Perkins. Mr. Perkins has indicated he is in favor of A.J.R. 6.

Richard Perkins, Private Citizen, Henderson, Nevada:

It is always an interesting debate and has been for many sessions. I had the opportunity to live through most of the history you have been talking about. I am here in support of A.J.R. 6 and am only representing myself in this matter. I also have the dubious honor of being the Speaker who presided over the most special sessions in our state's history—six of them, as a matter of fact. In 2001, it had to do with redistricting. In 2003, we met twice over budgets. We once had a medical malpractice special session because of a crisis that was facing our state. We had an impeachment special session because of an issue

dealing with the State Controller. In 2005, we had another special session dealing with our budget.

In the mid-1990s, like many of you I believed annual sessions were not a good idea, and for many of the same concerns you have already raised—can we preserve a citizens' Legislature in the State of Nevada if there is an obligation every year? At the time, I was in opposition to annual sessions, but my mind is different today for that very same argument. You already have a full-time Legislature. It is in part-time clothing, but we should call it what it is. Special sessions are the norm instead of the exception anymore. Dozens of interim committees are meeting year round. We have an Interim Finance Committee and a Legislative Commission that handle a number of legislative pieces of business in between regular sessions so, in my view now, I think this is actually the best way to preserve a citizens' Legislature. I do not know if 60 days in even-numbered years would be the right number of days. Perhaps it could be less and help more citizens participate in our process.

My testimony, Mr. Chairman, is that you already have annual sessions. It was in the 1995 Session that we passed and put on the ballot the proposed change to the *Constitution* to limit regular sessions to 120 days. We met that limit as a Body one time—in 1999. During the last hour of that session, we finished our business but it truly has not happened since.

The conservative view generally is, "Let us not have the Legislature meet very often because they can tax us only when they are in session." That has been the debate over many, many years. More recently, I have seen the conservative view be, "We need to meet every year in order to properly manage the fiscal affairs of this state." I walk around these hallways this session two or three inches taller than I was in 2003, because I do not have the weight of the world on me like you all do this session. As I tell folks, "You have a \$2.5 billion problem, and it is not mine. It is yours to deal with because that is what the citizens of the state elected you to do." This is a stark reminder of why we can no longer project two years of our budget. We just cannot do it. I think it is easier to speak to Mr. Conklin's point, Mr. Chairman. I do not own a business with 50 employees, or 10 employees, or anything like that, but it is easier for me to plan for an employee to be gone at a specific time in the odd years and a specific time in the even years than to be at the whim of the Governor calling a special session, not knowing when that might be or for how long. Generally, you have been successful in keeping those special sessions very, very short, but they could go on for 5, 10, or 20 days and that could be very, very harmful to someone's employment.

Mr. Settelmeyer spoke about the voters' wishes. The last time this issue was voted on was in 1998. This proposal would not go on the ballot until 2012. I would suggest that we have almost an entirely different electorate since 1998. This state has probably doubled in size since then, and they all make more demands on our government. In any event, whatever the voters' wishes are, they get to have that voice again. If you put it on the ballot, they can turn you down if they do not believe in it, so the voters' wishes will continue to be honored.

We have a lot of interim committees. From my perspective, we need to have fewer. They tend to be added to the list and never get taken off, but that is a decision for you to make, too. Even the amount of time you would have to spend on interim committees is sort of voluntary because those appointments are generally made by the Speaker of the Assembly and the Majority Leader of the Senate. If you do not have the time to commit to those committees, you ask not to be appointed to that committee. You have some choice in that regard.

One of my degrees is in political science, and one of the things I truly appreciate about this country and this state is the system of government that we have. When I went through government class in my grade school, middle school, and high school years, all we talked about were the three coequal branches of government. This Legislature is not an equal branch of government in our state constitutional scheme. I cannot tell you if it ever was. When you are limited to 120 days every other year, there is no way you can compete with the Executive Branch of government in helping to govern the state.

I know you have heard a million times that the legislative branch of government is the branch closest to the people. Well, if you are the branch closest to the people and you are the people's voice and you are limited to meeting for 120 days every other year, how do your constituents actually have as much of a voice in their government as you would want them to have? That limits their access to government as well.

Many of you serve on the Assembly Ways and Means Committee. I am sure you get frustrated, as I did, because you pass a budget, you give directions to agencies, and they do not follow those directions. The biggest reason, in my view, is agency personnel are not going to see you for another year and a half. Half the time by then, you will have forgotten what you suggested they do, and maybe a third of you will not even return. So for agencies, the downside to not following legislative intent or legislative direction really is not significant. The Interim Finance Committee can cover that to some degree, but only if there is a

budgetary programmatic change that comes before them. It is very, very difficult, in my view, for you to have the governmental oversight you are constitutionally obligated to have.

In closing, I think that would change significantly if you met every year. I am not advocating going back to the 169-day session that did not finish until July 7, 1997. As much as you are dedicated to this cause, no one here wants to dedicate his or her entire summer to this effort. I do not think that would be a good thing, either.

Assemblyman Conklin:

Mr. Perkins, there are many issues if we have consecutive sessions. We could do a better job with the current 120-day session, for instance, if there were a two-week lag period after first House passage that would afford an opportunity for staff to get caught up and for legislators to get caught up with the bills. At one point, I estimated that there were 20,000 pages of bills to read before passage out of the first House. There is a massive amount of information to consider and the whole system may need to be rethought. The system worked in 1864 when Nevada was a small state and willing to give 95 percent of its land back to the federal government. We did not have enough people or money to govern it, but now, we are grown up. We are a bigger state, more things are going on, and we are more complex. I am not convinced that two sessions would solve the problem, but the whole process needs to be rethought in terms of making it flow better so that you really are getting 120-days-worth of legislating here. A lot of what we do is wait. We work as fast as we can, and then we wait for the next steps to occur such as drafting, printing, et cetera.

Richard Perkins:

I do not disagree with you at all. This is not a 120-day session anyway. The money committees meet several days before the official start of session, so that is additional time some legislators are away from their jobs that is dedicated to crafting of the budget. It really is somewhat of a misnomer to suggest that this is a 120-day Legislature. This is not the 1860s, nor is it the 1950s. This is a complex state. During the last few sessions, we have dealt with issues I never dreamt would ever face Nevada. They are now yours to deal with, and I know you all take that obligation seriously.

Assemblyman Munford:

Have you any thoughts concerning what the citizens of Nevada think about this subject?

Richard Perkins:

I think the opinions amongst our citizenry are as diverse as they are on this Committee. There are people who are for it and there are people who are against it. The Legislature sometimes falls into disfavor with the public, and when that happens they do not want you in session. Right now, given the magnitude of this economic challenge that you face, I think they might wish you had had the opportunity in 2008 to have had some effect over what is going on. There are constituency groups, and you all know them, that would love to have access to their government more often than they do every other year. The local governments talk about how well they govern, primarily because they meet every two weeks instead of every two years. I am not suggesting that you should meet every two weeks, but, clearly, every two years is a much longer period of time.

Assemblyman Munford:

When I talk on the phone to people in other parts of the country, they assume I am in Carson City because Legislatures in other states are meeting that often.

Richard Perkins:

Many of you participate in other legislative activities outside of the State of Nevada, whether it is the National Conference of State Legislatures or other groups. Like you, I have had conversations with our colleagues from other states who ask, "You only meet every other year? Are you kidding me?"

Assemblywoman Koivisto:

I think it is probably a fairly safe bet that many of our constituents are not even aware that we are up here in Carson City only during odd-numbered years for 120 days. They call, year round, every year and want us to take care of their issues. They are not happy if their issues cannot be resolved without waiting for a legislative session.

Chairman Mortenson:

That is true. I have run into the same thing.

Richard Perkins:

There are crises, aside from budgetary ones, that have to wait for a session to start, whether it is something that just affects one community or the entire state. It is disheartening to tell a constituent, "I am sorry. We have no authority to do that until the next session." I also agree with Mr. Settlemeyer. If you can cut the bills in half, that would be fine, too. Twelve hundred bills and resolutions in 120 days is a lot of heavy lifting.

Chairman Mortenson:

Are there further questions? I see none. Thank you very much Mr. Speaker, for your erudite comments.

Assemblyman Segerblom:

To walk you through the time table, if we passed this bill this session, the Legislature would vote on it again in 2011. If it passed out of the Legislature in 2011, it would go on the ballot in 2012. The Legislature would meet in 2013 as it normally does, so the first time this bill would actually have an impact on this Legislature would be in 2014, which would be five years away. Nevada would have five more years of population growth, budget growth, and problems. Because the process takes so long, we really have to look down the road and be proactive.

Assemblyman Settlemeyer:

What are the time frames in states that have populations similar to ours? What is the closest comparable?

Assemblyman Segerblom:

Our neighboring states all have annual sessions. Idaho is smaller in population, Utah has about the same population, Arizona is a little bigger, and Oregon is bigger. Among the five states that do not have annual sessions, which includes Nevada and Vermont, Texas is the only one that has a substantial population. I do not know the intricacies, but it is my understanding that Texas is a very aberrational state in that their committees are meeting all the time, so it is not really a situation that would be comparable to ours. We are unique, and of course with our growth, we actually need to have more meetings rather than fewer meetings.

Chairman Mortenson:

I would like to speed things up, but I do not want to limit any of your comments. I will now open the hearing to public testimony.

David Schumann, Chairman, Nevada Committee for Full Statehood, Minden, Nevada:

Our neighbor to the west, California, was mentioned as an example. They meet almost all the time, and they have just created for themselves a \$42 billion deficit. I used to think that sort of a deficit was reserved for the federal government. The federal government meets most of the year and they passed the Community Reinvestment Act which forced banks to give mortgages to people who could not put a down payment on their homes and did not have to

give financial histories. So, Legislatures have mixed records. I do not think the Nevada Legislature's record, being a part-time Legislature, is all that bad.

This bill would create a situation where you would be forced to do something every year and if you did not do something very creative, people would say, "Oh, they are just up there in Carson City burning money." I would rather see you, the legislators, get paid for 120 days. If you had to come back in the interim for 30 days, you would not receive any pay, and that would give you an incentive to keep that session short. I do believe you folks work hard and I think you should get paid for every day you work. If we are going to have meetings every year, just have that other session be really short and for no pay.

Lynn Chapman, State Vice President, Nevada Families, Sparks, Nevada:

We oppose this bill. No one has enough time in the day, and we all work hard. I am not paid to come here, but I enjoy coming down here and doing all this work for nothing. I voted for the 120-day legislative session. One hundred twenty days is a long time. You do work hard, but I like the 120-day session because having the Legislature go into July was very difficult.

Annual sessions tend to lead to a larger government. Political scientists have said that the longer a legislature is in session, the more legislation it produces, which leads to a bigger, more expensive, and more complex government. The states with full-time legislatures generally rank at the top of the list of the biggest per-person taxing and spending. Texas has a 60-day session, meets every other year, and they have a population of 24.1 million people. Nevada does not come near that population. Texas also has 32 congressional districts.

I really do not think that the people want to have the Legislature meet constantly. You heard the former Speaker say that people believe when you are in session taxes will be raised. That is the way people feel. I have been out talking to people about this issue, and they are not happy with it. They do not want to have the Legislature meet every year. So, please vote no on this.

Janine Hansen, representing the Independent American Party, Elko, Nevada:

This is a very interesting topic. The one part of the bill I really agreed with was amended out by Mr. Segerblom. I really feel all of you should be paid for the entire time you are here. I know the voters rejected it, but we supported it publically and in our voter guide because one of the things it does is help promote a citizen Legislature. I think it is critical to have people paid when they are here. The only people who can afford to be here if they are not paid are those who are in circumstances that most of us are not. I really support a citizen Legislature, and I feel that being paid is an important part of it.

One of the things that has been discussed is the issue of reducing the number of bills. I think that your time here might be much easier if you did not have so many bills. I do not necessarily think that individual legislators' bills ought to be reduced, but I think you could reduce the number of agency bills. That would result in the agencies needing to come through legislators or a legislative committee to have their bills introduced, which would allow you to review agency proposals. We elect you; we do not elect agency personnel. If you would reduce the number of bills, that would help, and you would not have to have annual sessions. I am opposed to annual sessions, but if you did have annual sessions, there are some procedural questions that should be answered. If you have a session every year, do the bills from one session carry over to the next session? In some states, bills do carry over.

I have been attending legislative sessions here since 1971, so I was here when sessions were 160 days long. Something that has helped the current Legislature is having a specific deadline. Even if you have to go into a special session, that is better than not having a specific deadline. That makes a big difference.

I have another question to ask that has not been answered. We have laws about campaign fundraising. If you move the date of the primary up, and you move the time when you file for office up, and you have annual sessions, how do those changes affect campaign financing? That has not been discussed, but is an issue that needs to be looked at before you pursue this.

I am really not in favor of annual sessions, but I feel there are ways that you can reduce some of the pressures on you in the 120 days you have now so that you can get more work done and not need annual sessions. I have concerns about having annual sessions. Utah has annual 45-day sessions, so they meet for less time than we do. Maybe that would be a better alternative; having two shorter sessions instead of one, longer session as you do now.

Assemblywoman Koivisto:

I know you all are strong supporters of the people being allowed to vote on issues, and that is what this bill does. It would allow the people to vote on this idea.

Janine Hansen:

I agree with you. I am not against the people voting, but the process starts here. The people we represent want us to be here telling you how they feel and how we feel. So we come and do that. If you pass this bill, we will tell the people the same thing when it goes on the ballot. I am not opposed to that

process. I completely support the process of allowing the people to vote, but the process starts here. If you were against something, you would be opposing it here in Committee even if the people could vote later, too. Everyone knows that.

Chairman Mortenson:

That testimony ends the number of people who have signed up to speak on the bill. If someone else wishes to talk, please come forward.

Assemblywoman Smith:

I was looking at the Texas information. Texas does have a short meeting time, but they have a very different way of dealing with their budget. They have hearings before the legislators arrive so they have a completely different process. The Legislature is not as intimately involved and, in fact, their agencies propose their own budgets and hold public hearings. You cannot compare what they do with what we do, but also, in 2005 they had two special sessions that each lasted a month. In 2006, they had another special session that lasted a month. When we make comparisons, we need to be able to compare apples to apples.

Julianna Ormsby, representing the League of Women Voters of Nevada, Carson City, Nevada:

We urge your support of A.J.R. 6 for all the reasons Mr. Perkins and Mr. Segerblom have already discussed, and we appreciate the dialogue that was generated today.

Chairman Mortenson:

Are there any other questions? I see none. Does anyone else wish to speak? I see none. I am going to close the hearing on A.J.R. 6.

This Committee considered Assembly Joint Resolution 1 and did not take a vote due to the fact that a couple of Committee members were absent. At this time, more of our Committee members are present, so I would like to open the hearing on A.J.R. 1. Mr. Guinan will brief us about the bill.

Assembly Joint Resolution 1: Proposes to amend the Nevada Constitution to revise the provisions governing a petition for a state initiative or referendum. (BDR C-710)

Patrick Guinan, Committee Policy Analyst:

We heard A.J.R. 1 on March 12. It is a measure that proposes to amend the *Constitution* to provide for initiative petition signature gathering via

congressional district. Ten percent of the registered voters who voted in the previous election for the Governor of the state would be required to sign an initiative petition in order for it to make it on the ballot. It also provides that the number of signatures required to put the petition on a ballot would have to be set when an initiative petition was filed with the Secretary of State so that petition gatherers would know how many signatures they needed to get.

If you remember, testimony in the Committee when we heard the bill indicated that A.J.R. 1 of this session was the same bill passed by the 22nd Special Session. It was introduced as an emergency measure in that special session and passed both Houses of the Legislature. It came back in 2007 and passed out of this Committee and the Assembly, but died in the Senate Legislative Operations and Elections Committee. Now, that measure is being brought back again. If it is passed in this session, it would need to pass again in its identical form in 2011, and then it would go to a vote of the people in 2012.

Assemblyman Hambrick:

I thought the American Civil Liberties Union (ACLU) might be offering an amendment. Did that come through?

Chairman Mortenson:

We are not taking that amendment, but I have another Committee bill I will be putting that amendment into.

Patrick Guinan:

I should have mentioned that at the beginning. The Chairman had previously indicated to me that he wanted to consider the measure without any proposed amendments as it had been presented to the Committee.

Chairman Mortenson:

Are there any further questions? If there are no further questions, I will ask for a motion to Do Pass A.J.R. 1.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS ASSEMBLY JOINT RESOLUTION 1.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

Is there any discussion? If there is no discussion, we will take a vote.

THE MOTION PASSED. (ASSEMBLYMEN HORNE, KOIVISTO, AND SMITH VOTED NO. ASSEMBLYMAN CONKLIN WAS ABSENT FOR THE VOTE.)

Assemblyman Segerblom:

I am concerned that Mr. Conklin was not here.

Chairman Mortenson:

I know which way he would have voted, and it would not have affected the vote. He would have voted "no," so it does not affect the majority. As this session continues, we will be voting more frequently with Committee members absent. It becomes more and more difficult to keep everyone in Committee because they frequently are in other committees trying to get their own bills passed.

Assemblywoman Smith:

I would like to note for the record that I did not support the bill because I think it marginalizes the northern part of the state and, in particular, the rural areas and Washoe County.

Chairman Mortenson:

Mrs. Smith, I understand and respect your statement. We are going to open the hearing on Assembly Joint Resolution 5. Mr. Guinan will present the bill.

Assembly Joint Resolution 5: Proposes to amend the Nevada Constitution to authorize the Legislature to convene special sessions of the Legislature under certain circumstances. (BDR C-139)

Patrick Guinan, Committee Policy Analyst:

As legislative staff and policy analyst with the Legislative Counsel Bureau I am not allowed to advocate for or against any measure or for or against any position on a measure. I am here today on Chairman Mortenson's behalf to present the bill and explain what it does.

Assembly Joint Resolution 5 is a measure that proposes to amend the *Nevada Constitution* to limit the duration of special sessions of the Legislature to 20 days, to limit the matters that may be considered during a special session, and to provide that a special session may be convened by a petition signed by two-thirds of the legislators of each House.

As background information, this is a resubmission of a prior resolution initially heard by the Legislature in 2003. It passed both Houses in 2003. It was heard

again in 2005 in its identical form and was passed then. It went to the voters in the 2006 General Election as statewide Question 10. It was defeated in that election by 52.37 percent to 47.63 percent—about 26,000 votes. This is identical to that measure; nothing has been changed in the bill. It simply allows the Legislature to call itself into a special session under special circumstances with a two-thirds vote of the full Legislature. It limits that special session to 20 days and it limits the matters that can be considered during that special session.

Chairman Mortenson:

As Mr. Guinan said, he cannot advocate for or against this measure, so as it is my bill, I would like to advocate for it.

Assemblyman Ohrenschall:

Mr. Guinan, that was a very close margin for a constitutional amendment. Is that one of the closest in recent history?

Patrick Guinan:

I would be answering without the statistical numbers at hand, but I have been looking at a lot of ballot questions for the past year or so and I would venture to say that it is one of the closer ones in recent history. I would be happy to look up those numbers for you and provide them to the Committee.

Chairman Mortenson:

There is essentially a 4 percent difference between the "ayes" and the "nays." Our *Constitution* is grounded on the principle of three equal branches of government, as our former Assembly Speaker, Mr. Perkins, stated a few minutes ago. We have three equal branches of government and the responsibility to enact necessary legislation is vested in the legislative branch. However, Nevada's constitutional language allows only the Governor to call a special legislative session. This impedes and is contrary to the constitutional provision that vests the legislative authority in the Legislature.

In order for the Legislature to operate with a reasonable degree of independence from the Executive and Judicial Branches as consistent with the separation of powers principle, it should be endowed to identify those topics that may require action and call the Legislature into special session. We in the United States have recently seen the rather heinous activities of one executive branch. It is alleged by the Justice Department that Governor Blagojevich of Illinois tried to sell a United States Senate seat. The Illinois House of Representatives voted 114-1 to impeach the Governor. The Illinois Senate essentially convicted him and removed him from office. What would happen if that had happened in this

state? I am not trying to compare our current Governor with the one from Illinois, but what would happen here if we had the same situation? We would have to go to the Governor and say, "Governor, will you call a special session so we can impeach you?" It does not work that way.

Richard Perkins also questioned how the Legislature that meets for 120 days can compete with an Executive Branch that is operating 365 days. If we are going to be the Legislative Branch, we really need to be able to call ourselves into session. In this bill we are limited in how long we can stay in session. The maximum is 20 days. Of course, we can always call a second session if we cannot do our business in 20 days, but still, we must stick to a specific subject that two-thirds of the Legislature agrees to. We do have good protections. Since this bill lost by only 4 percentage points in the former election, it deserves a chance to go to the people again. I think the experience in Illinois could be mentioned in the ballot explanation.

Are there any questions from the Committee for Mr. Guinan or myself? I see no questions, so we will take testimony from the public.

David Schumann, Chairman, Nevada Committee for Full Statehood, Minden, Nevada:

We support this. I think the Chairman mentioned all the safeguards that are in it. Certainly, you cannot get a better example than Governor Blagojevich. The Illinois Legislature was able to call itself into session, and we think this is a necessary condition for good government. We urge a "Yes" vote.

Lynn Chapman, State Vice President, Nevada Families, Sparks, Nevada:

We are in support of this bill. I really feel confidence in all of you. If two-thirds of the members of the Legislature decide to go into a special session, I believe that would be fine. I think you can police yourselves enough with a two-thirds majority, so we are in favor of this bill.

Janine Hansen, representing the Independent American Party, Elko, Nevada:

In 2001, we worked with Assemblywoman Koivisto on the Model Emergency Health Powers Act. That experience changed my point of view on this particular idea concerning special sessions. We supported this proposal last time, we supported it in our voter guide and on the ballot, and we will support it in the future. Under the Model Emergency Health Powers Act, in an emergency, a Governor essentially would become a virtual dictator. There would be no opportunity whatsoever for the Legislature to weigh-in on any of those emergency powers and emergency declarations. In fact, that particular law would allow the Governor to confiscate food, fuel, clothing, guns, property, and

vehicles, and while that would be going on, the Legislature would have no ability to respond to those emergencies.

We feel A.J.R. 5 is a good check and balance and would be convened only under, as it says, "extraordinary occasions." It has good safeguards with the two-thirds vote requirement and the 20-day limitation. Also, the will of the legislators would play a role as they must come together and believe it is important. Most of them, as citizen legislators, do not want to go into a special session unless it is absolutely necessary. With the experience of realizing that in an emergency a Governor might be a virtual dictator with no opportunity for the Legislature to respond, we feel that to protect the rights of the people, it is important for the Legislature to be able to call themselves into special session in extraordinary circumstances. We support this, as we have in the past.

Chairman Mortenson:

Does anyone else wish to speak on this measure?

Assemblyman Settlemeyer:

Does anyone know what other states currently do? Are we the only state in which only the Governor can call a special session? Is this common?

Patrick Guinan:

Right now, there are 32 state legislatures that have the ability to call themselves into a special session. The Nevada Legislature is one of only 18 in the country that cannot call a special session, and it is one of only 11 states that is allowed no input into the subject matter to be considered at a special session.

Chairman Mortenson:

In effect, two-thirds of the states allow their legislatures to call themselves into special session.

Assemblyman Settlemeyer:

I like the concept of the Legislature being involved, but before signing a petition, I would like to be able to see the bills that would be considered. I would like to see the subject matter narrowed down so I would know exactly what we would be agreeing to. If I signed on to a special session to look at the budget, I would like to know exactly what bills would be considered. I would not want to vote, not knowing the consequences and what that vote would entail. The same way that I have serious concerns at the ballot box when people are told to vote for a particular bill because "it will improve the quality of your life." They say "Yes"

and discover they have agreed to raise their sales tax or create a state income tax. Those issues concern me.

Chairman Mortenson:

Mr. Settlemeyer, before the vote is taken by each House, there must be an agenda in place. That is what the members will vote on—the agenda—and they must stick to that agenda. If the agenda does not list "sales tax" they cannot pass a sales tax. It is a strict agenda. Are there any other questions? I see none. We are going to recess for two minutes [at 5:12 p.m.].

I am going to reconvene the Committee [at 5:16 p.m.]. I wanted to confer with the author of A.J.R. 6, and he would prefer that we hold his bill for a future work session. I will also hold A.J.R. 5 for a future work session. Is there any other discussion?

Assemblyman Settlemeyer:

On the bill stating that the Legislature should be able to call itself into session, when was the last time that issue or concept was heard in the Legislature?

Patrick Guinan:

I would have to double check, but I do not believe there was a special session bill during the 2007 Session. There was a public vote on the previous resolution during the 2006 General Election and it lost.

Chairman Mortenson:

Are there any other matters to come before the Committee? I see none, so we are adjourned [at 5:17 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblyman Harry Mortenson, Chair

DATE: _____

EXHIBITS

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

Date: March 19, 2009

Time of Meeting: 3:52 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
AJR 6	C	Assemblyman Tick Segerblom	Explanation of the bill
AJR 6	D	Assemblyman Tick Segerblom	PowerPoint
AJR 6	E	Assemblyman Tick Segerblom	Proposed amendment
AJR 6	F	Assemblyman Tick Segerblom	History of legislative sessions
AJR 6	G	Assemblyman Tick Segerblom	History of this constitutional amendment
AJR 6	H	Assemblyman Tick Segerblom	Chart comparing Nevada with surrounding states