

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

**Seventy-sixth Session  
April 7, 2011**

The Senate Committee on Legislative Operations and Elections was called to order by Chair David R. Parks at 3:39 p.m. on Thursday, April 7, 2011, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 5100, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator David R. Parks, Chair  
Senator Moises (Mo) Denis, Vice Chair  
Senator Steven A. Horsford  
Senator Barbara K. Cegavske  
Senator James A. Settelmeyer

**GUEST LEGISLATORS PRESENT:**

Senator Joseph (Joe) P. Hardy, Clark County Senatorial District No. 12  
Senator John J. Lee, Clark County Senatorial District No. 1  
Senator Sheila Leslie, Washoe County Senatorial District No. 1  
Assemblyman Peter Livermore, Assembly District No. 40

**STAFF MEMBERS PRESENT:**

Carol Stonefield, Policy Analyst  
Eileen O'Grady, Counsel  
Michelle Ené, Committee Secretary

**OTHERS PRESENT:**

Jeff Fontaine, Executive Director, Nevada Association of Counties  
J. David Fraser, Executive Director, Nevada League of Cities and Municipalities  
Oscar B. Goodman, Mayor, City of Las Vegas  
Shari L. Buck, Mayor, City of North Las Vegas

Senate Committee on Legislative Operations and Elections  
April 7, 2011  
Page 2

Robert A. Cashell, Sr., Mayor, City of Reno  
Katy Simon, Manager, Washoe County  
Constance J. Brooks, Senior Management Analyst, Office of the County  
Manager, Administrative Services, Clark County  
David Bennett, Councilman, City of Mesquite; President, Board of Directors,  
Nevada League of Cities and Municipalities  
Steven Dempsey, We the People  
Larry Lomax, Registrar of Voters, Elections, Clark County  
Janine Hansen, Executive Director, Independent American Party; State  
President, Nevada Eagle Forum  
Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of  
Nevada  
Michael D. Hillerby, National Popular Vote Inc.  
Gregory G. Aghazarian, National Popular Vote Inc.  
Trent England, Director, Constitutional Studies, Freedom Foundation  
Lynn Chapman, State Vice President, Nevada Families  
Russell Best  
Jim Sallee  
Bettye Lemon-Gilmour  
John Wagner, State Chairman, Independent American Party  
James Smack, Chairman, Churchill County GOP  
Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation  
Juanita Cox, Citizens in Action; People Organized for the Next Generation;  
Storey County Republican Central Committee  
Kim Bacchus  
Jim DeGraffenreid, Chair, Nevada Republican Party  
Christine Burns, Nevada Legislative Affairs Committee  
Leslie Hayworth  
Andrea "Ande" Engleman  
Mario Dela Rosa, Community Organizer, Progressive Leadership Alliance of  
Nevada  
Ron Dreher, Peace Officers Research Association  
Brandi Anderson  
Theresa Navarro, Chair, Progressive Leadership Alliance of Nevada  
Robert Joiner  
Lawrence A. Werner, City Manager, Carson City  
Robert Crowell, Mayor, Carson City  
Cadence Matijevich, Legislative Relations Program Manager, Office of the City  
Manager, City of Reno

CHAIR PARKS:

We will open the meeting with Senate Joint Resolution (S.J.R.) 9.

**SENATE JOINT RESOLUTION 9:** Proposes to amend the Nevada Constitution to require an affirmative vote of two-thirds of the members elected to each House of the Legislature to decrease revenues or reserves of or mandate that new or different services be performed by a local government. (BDR C-395)

SENATOR JOHN J. LEE (Clark County Senatorial District No. 1):

In the last election cycle, there was an advisory question put on the ballot and voted on by the people in the State. Fifty-six percent of the people thought this idea made sense. Therefore, we are bringing S.J.R. 9 forth to discuss the issues and see if there is support within our Legislature to protect local government.

I would like to read the following written testimony explaining the need for S.J.R. 9 ([Exhibit C](#)).

SENATOR SETTELMAYER:

I believe it is in our *Nevada Revised Statutes* that the State Legislature should not pass unfunded mandates down to people. It bothers me that we have not obeyed it. What do we do in situations where the Legislature decided to limit the property tax on the people with the 3 percent and 8 percent? When the State Legislature decided to limit the increase on one's property tax to 3 percent and then 5 percent for commercial property, would a bill like this prevent the Legislature from then providing tax relief to the constituents?

JEFF FONTAINE (Executive Director, Nevada Association of Counties):

I do not believe it would affect what the Legislature enacted back in 2005 with regard to a property tax cap, like the 3 percent and 8 percent.

SENATOR LEE:

We are trying to get this on the ballot so in the future, we would not have those kinds of challenges.

MR. FONTAINE:

We would like to thank Senator Lee for bringing S.J.R. 9 forward. Nevada Association of Counties (NACO) is in support of this bill. Since 2008, revenue diversions and unfunded mandates have cost counties an estimated

\$250 million. The Governor's budget is estimated to impact counties by an additional \$335 million during the next biennium, which only exacerbates the revenue shortfalls counties are already experiencing. Shifting resources away from counties, mandating they perform new services or reimburse the State for providing services the State has historically provided, adds to the burden counties face in providing vital services to their residents. These shifts do not solve the problems for either the local community or the State in the long term.

It is our belief that revenue diversions and unfunded mandates should not be allowed without an agreement from the affected county to do so—a belief supported by a majority of voters in the last general election. Senate Joint Resolution 9 is an important step in creating predictable and sustainable budgets. In our view, revenue diversions and unfunded mandates are akin to a tax on counties. I know you hear the same argument from other sectors being asked to take cuts, but local governments and counties are already mandated to provide certain services.

Until legislation is on equal footing with other measures seeking to increase public revenues by requiring a two-thirds majority vote in each House, local government revenues will always be a convenient revenue source for the State. While S.J.R. 9 would not affect the 2011-2013 budget, we do support putting this issue on the ballot so voters can decide how their local revenues are used.

J. DAVID FRASER (Executive Director (Nevada League of Cities and Municipalities): I appreciate Senator Lee bringing S.J.R. 9 forward. Earlier, Mr. Fontaine and Senator Settlemeyer mentioned two different votes taken by the people. One had to do with unfunded mandates, which are in statute enacted by the Legislature. The other vote, as Mr. Fontaine mentioned, was an advisory question in the last election cycle. The voters approved the advisory question that stated before a local government revenue is redirected or an additional service mandated, the Legislature should get the consent of the local governing body. I understand this proposal comes from that vote. State, county and city governments are partners and each provides different services, but all go to the same constituents. That makes us teammates, not adversaries, in the quest to provide those services to constituents. I appreciate the work done over the past interim with the S.B. No. 264 of the 75th Session Committee to Study the Powers Delegated to Local Governments, which Senator Lee chaired. Those bills will be heard tomorrow in Senate Government Affairs. The Legislative Commission's Committee to Study Powers Delegated to Local Governments

along with its Interim Technical Advisory Committee for Intergovernmental Relations made progress in getting all of the units of government to the table and talking to each other. We support this bill because it takes a good step in the right direction. The ultimate solution is found in teamwork and having local governments involved in an ongoing dialogue about who can provide what service best and how those services can be funded and provided in the most efficient and effective way to our citizens.

SENATOR HORSFORD:

I want to thank Senator Lee for bringing this bill forward. We have talked and agree we should be working together as partners between State and local government to meet the needs of our constituents. I know this is Senator Lee's intent in how he has brought this measure.

The references made that the State is taking local government money is troubling to me. It is somehow viewed as local government money and not taxpayer money. I would like to open the discussion on how we can work as partners regardless of jurisdiction to prioritize the needs of all of our constituents we serve. The Governor's budget proposes to redirect, not just dedicated revenue, but services to local government which will have big impacts. We need to work together. We are all serving the same people; it is all the taxpayer resources. If we get into a this-is-ours-not-yours discussion, we will never move to where we want to go. I want to ask the two of you, as representatives of your organizations, to help me.

MR. FONTAINE:

We could not agree more. It is taxpayer dollars we are talking about and what services are being provided by what level of government. The NACO and counties are more than willing to work together with the Legislature to figure out how to best align services and resource allocation. The problem is there are a lot of constraints and only a 120-day session. A lot of these proposals to shift services or divert revenues have a significant impact on county governments which cannot be absorbed and adjusted for in a short amount of time, starting July 1. We look forward to working with you, the Legislature and others to figure out how to best align services and resource allocation. This does not help the situation today, but we are committed to working with you going forward.

MR. FRASER:

We are all serving the same constituents. I appreciate the Majority Leader, Senator Horsford, pointing that out so well. One of the vehicles good for that is the Interim Technical Advisory Committee for Intergovernmental Relations, which functioned over the last interim. It discussed which level of government was best equipped to provide which service. The other bill I spoke about would extend the life of that body and give us additional opportunities to do what the Majority Leader suggested. It should be a continuing discussion that takes place beyond the 120 days. A lot of good can come out of working cooperatively, especially when all parties believe they are dealing with the same constituents. The issue involves figuring out who can best provide services and how those services can be adequately funded.

SENATOR HORSFORD:

We all welcome that discussion. Since we only meet every other year for 120 days, we do not have full-time staff during the interim; we have Legislative Counsel staff who assist us on a limited basis. In reaching out and talking to city and county managers and elected officials, local government does have the capacity to have an ongoing discussion concerning service implementation strategy and how it would work. This is important on deciding the appropriate place to provide some of these services.

Historically, the State has provided functions which will not be provided any more. Some services we provide, many other states do not provide. In order for us to do our function well—education, mental health services, health and human services, child welfare, public safety—at the State level, we need to reassess those other areas. The Governor has offered some suggestions and we need to work from those suggestions. We need to figure it out in a way that makes sense and not compromise the service delivery to our constituents.

I view this bill as an opportunity for us to have the discussion. Senator Lee is the Chair of the Senate Committee on Government Affairs. He is concerned about the impact on local governments as many of us are, as well. To the end, we all have a job to do, and none of us are entitled to anything, including the taxpayer resources.

CHAIR PARKS:

One option for realigning various revenue sources is exchanging one source for another source that local governments currently do not get, for example, the

Consolidated Tax (CTX) Distribution that now goes to cities. Could this legislation impact or prohibit such discussions or exchanges of revenues?

MR. FRASER:

I do not think anything does. This would not preclude any of those discussions but would require a higher vote count of two-thirds as opposed to a simple majority.

SENATOR SETTELMAYER:

This bill only changes the number of votes required to make that change.

SENATOR DENIS:

This bill requires a two-thirds vote to decrease revenue, reserves of or mandate new or different services performed by a local government. If we wanted to increase revenues, it would not require the two-thirds vote. We should have it both ways, the ability to decrease or increase.

OSCAR B. GOODMAN (Mayor, City of Las Vegas):

I want to thank Senator Lee for sponsoring the resolution before you. Senator Lee has always been an advocate of local government. During the interim, he offered to personally appear before all of the city councils and county commissions statewide to talk about local government issues. He was the Chair of the home rule interim study, and he meets regularly with the Nevada League of Cities and our lobbyists to discuss these issues. I want to thank Senator Horsford for his open door policy for the City of Las Vegas. When there is a matter to be discussed, he hears it immediately and gives it great attention.

Supporting the resolution could somehow imply—as long as the Legislature affirms with a two-thirds vote to take away traditional tax monies which go to local government or shift new or different services to us—we are okay with it. That is not the case. Even if a unanimous vote was required, we would be concerned. This is no different than the federal government imposing unfunded mandates on us; we have to live with that imposition.

We want to take a seat at the table when the Legislature is having these discussions. We are all representing the same constituents, though in different capacities, and want to resolve this on behalf of the people we represent.

We have faced the economic downturn head-on and are still providing the services for your constituents, who are our constituents. In fiscal year (FY) 2008, we reduced our operating budget back to 2005 levels at \$527 million and in FY 2010 to \$464 million. Las Vegas has eliminated 600 jobs and laid off 200 employees. The City of Las Vegas reached agreements with each of our collective bargaining labor unions representing 2,355 employees, resulting in savings of more than \$36 million. We negotiated future increases to ensure the long-term stability and sustainability of our organization.

The City has reorganized management to ensure an appropriate management staff ratio at a savings of over \$3 million. In previous years, the City has responded to unfunded mandates by refocusing resources, assets and employees. With today's lean budgets, we are not in a position to reshuffle the resources in response to unfunded mandates. Any additional increases, decreases in revenue or added service will result in a cut to some other service. We all represent the same individuals who expect the State as well as the local entities to provide a certain quality of life. We have been proactive. In 2008, we began discussions concerning the economy and have been constantly and consistently reviewing programs, services and every dollar that passes through the City to our mutual constituents. The services our City provides to folks are funded in part through the CTX and other revenue sources that pass through the State. Making it more difficult for this and future Legislatures to reduce the City's revenue or impose additional unfunded mandates is a positive step to ensure our constituents will continue to receive public safety, parks and recreation, public works and other services that cities and counties provide which are vital to the residents of this great State.

We do want to be at the table—this is not an easy discussion. I do not believe you will come to any resolution in the next 60 days as to how we are to address the problem. During the interim, I want to offer, on behalf of our mutual constituents, to be at the table with you and help solve these difficult issues.

SENATOR HORSFORD:

We are talking about the impact to local government. Abatements and incentives local government approves that reduce State money come in as Modified Business Tax, sales tax, and money diverted for economic development projects and redevelopment projects. These programs divert money that helps us at the State level to fund education, health and human



services, and public safety. How would you comment on that interaction between State and local government? Some decisions you make reduce resources which come to the State.

MAYOR GOODMAN:

We do not have many incentives, other than to use tax increment financing as a vehicle in our redevelopment and economic development efforts. Without having that available to us, a brown field in our downtown would have been in rubble at this point in time. A blight that could not be corrected would have existed. We are not taking anything away in order to do these projects. We start off with a blighted area with a zero tax base, and we agree to a division of the increment.

We have projects that will stand as legacies for our mutual constituents, such as the Cleveland Clinic Lou Ruvo Brain Institute with the finest of academic medicine coming into our community. We could not have done this project without offering a split of the taxes we receive after completion. Businesses like the Performing Arts Center, World Market Center Las Vegas and Las Vegas Premium Outlets would not be here if we could not have said to the developer, "Come down into this blighted area, build a project, pay us the real property taxes, and then we will refund some of it, which will go back into the infrastructure." With all due respect, we are not taking anything from the State any more important than what we have created as a result of the ability to use that particular vehicle. We do not have monies to attract businesses like Florida, Utah or Arizona that make obscene offers in order to bring business into their community. We have to do what we have done—create venues which allow a certain quality of life. We are fortunate enough to have a company like Zappos, a subsidiary of Amazon.com, not leave Las Vegas and go to Seattle or Austin as contemplated but actually return to our urban downtown core. This created new businesses with opportunities for jobs; ultimately, we will have 10,000 more people, who will be contributing members of our community, come into downtown Las Vegas in the next five years. This is the way I perceive it.

SHARI L. BUCK (Mayor, City of North Las Vegas):

I agree with everything that Mayor Goodman stated. Presently, we are in the middle of our budget process. It is difficult for local governments to have any idea what services the State might redirect to local governments. We have to react to what goes on at the Legislature because your timing differs from our timing. Our budgets have to be in by May 18. You will go until the first of June

with what you are working on. It is hard to plan our budgets; not knowing our costs puts us behind the eight ball. We have been hearing as much as \$800 million could pass down to counties and cities. A city like North Las Vegas that is behind \$20 million a year because of the CTX formula—in previous budgets, we have cut \$35 million, \$32 million and next year, we are looking at \$20 million more—is at crisis point. I ask you to make the formula fair and equitable. We would not be in this position had that formula been equitable. We estimate North Las Vegas has not received about \$100 million. As we look at cutting our budget next year by 20 million more dollars, we are down to figuring out our essential services as a local government, what we can and cannot provide. I understand the State will also have those discussions. Those are discussions for all of us to have together. What should the State be providing? What should local governments be providing? We will do the best we can to provide those services to our citizens. Senator Horsford, we do have some tax overrides in our City. The other cities probably do, too. These taxes go specifically for parks, fire, police and roadways. Those funds are there with the expectation from our citizens that their tax money will go for those tax override projects they personally voted on and approved. Keep that in mind as we talk about sharing services. We are down to 2005 budget levels. We have cut 600 employees, not filled positions and have had 200 layoffs. We are down to bare bones, doing everything we can to still function as a city. Mayors in southern and northern Nevada have reached out to each other to have cohesiveness and are doing the best we can together in working with State government. We support this bill as written.

ROBERT A. CASHELL, SR. (Mayor, City of Reno):

I agree with what my colleagues down south have stated. We would like to be at the table. We want to work with it. You have problems; we have problems. Do I like it when someone comes messing with my taxpayers' money? No, not really and neither would you. We think this bill is a good step. There needs to be some dialogue in the middle. When we have bonds passed by the citizens for roads, schools or anything, you should go back to the citizens and ask them if they want to use money for something besides what they paid for and voted on. That is the only change I recommend, if a change is to be made.

I support this bill completely.

KATY SIMON (Manager, Washoe County):

I am in support of working together and collaboration. We believe it is important for us to have a collaborative discussion about service realignment. One size does not clearly fit all in our State. Things that work in Washoe and Clark Counties may not work in the rural counties for service provisions to be passed down. There may not be the capacity for service provisions. There may be ways for the counties and cities to work together and take on some service responsibility. It is not something we can do thoughtfully with you in the time available before July 1. Taking resources away, whether they belong to anyone or not, removes support the local governments count on. The local elected officials have imposed tax rates either by the vote of the people in those regions or by their own decisions. We do count on those revenues in our budget balancing. When the threat occurs that those revenues will not be available, there will be unintended consequences. Local governments are making decisions to spend down their reserves so they can use them locally, leading to depleted reserves in some cases. We do not want bad decisions to be made as a result of unintended consequences. We are committed to working on a partnership with the State to realign the service distribution. Interlocal agreements could be made in the short term regarding services we may be able to take on. We want the flexibility to work with the Legislature.

CONSTANCE J. BROOKS (Senior Management Analyst, Office of the County Manager, Administrative Services, Clark County):

We are in support of S.J.R. 9. We are partners in service delivery at every level of government in this State. We view this bill as a positive measure going forward that would provide safeguards to local government as we try to perform the services we are mandated to perform. We are willing to collaborate and be a strong voice at the table. We are appreciative of Senator Lee and the interim Committee to Study Powers Delegated to Local Governments. We view this measure as a great vehicle for us to continue this dialogue and to strengthen a positive relationship.

DAVID BENNETT (Councilman, City of Mesquite; President, Board of Directors, Nevada League of Cities and Municipalities):

The City of Mesquite is in the same situation as everyone else. We have cut 10 percent to 20 percent. This coming year we are cutting another 20 percent in our operating budgets—budgets are going to be tight.

STEVEN DEMPSEY (Member, We the People):

I have been studying the monetary system. I do not want to question your sincerity, but there is no answer. It is not as difficult as Mayor Buck stated—it is impossible. We are talking shortfalls and the blame game. There is not enough money. According to the show, InfoWars.com, the people who control our money allegedly plan to have the American people pay off \$1.5 quadrillion—50 to 60 times the gross national product of the entire world.

CHAIR PARKS:

Mr. Dempsey, we would like to have testimony specific to the bill.

MR. DEMPSEY:

I do not have a feeling one way or another. If the dollar is removed as the world's reserve currency, we will see immediate depreciation in the value of our money from 30 percent to 50 percent. I am afraid, if and when this happens, we are rearranging the deck chairs on the Titanic. The American public is learning things, and things can be done. I hope our public servants will learn to listen to the American people who are doing a lot of studying.

CHAIR PARKS:

I will close the hearing on S.J.R. 9. and move to Senate Bill (S.B.) 269.

[SENATE BILL 269](#): Makes various changes concerning elections. (BDR 24-840)

SENATOR JOSEPH (JOE) P. HARDY (Clark County Senatorial District No. 12):

I have a announcement to make. Write-in ballots exist and are legal in the State of Nevada. Senate Bill 269 would expand to more than just federal people and people who are doing absentee ballots. We have a system of write-in ballots, but S.B. 269 would extend to the voting machines that exist in all of Nevada. The voting machines are capable of being programmed in a way so you could use the touch screens, call up a line to get a write-in ballot and literally type in the name of the candidate and the position. As the bill proposes, after the primary, with enough time to process the machines and a filing period, people may file for a write-in option. Larry Lomax, Registrar of Voters, Elections for Clark County, will present a proposed amendment to S.B. 269 ([Exhibit D](#)), explaining how this can be done expeditiously and reasonably. In the proposed amendment, the filing period would be two weeks in early July in order to have time to put it on the ballots.

The candidates in the bill would be subject to the same rules as all candidates as far as financial reporting and handling of unspent contributions. Parenthetically, only five states ban write-in candidates, Nevada being one of them. Seven states do not require the write-in candidate to file a declaration in order to be considered a valid write-in candidate. The bill should be read with Larry Lomax's proposed amendment in order to make it clear.

LARRY LOMAX (Registrar of Voters, Elections, Clark County):

I have submitted a proposed amendment to S.B. 269, [Exhibit D](#). I would amend section 5 so a candidate filing period would be very similar to all other candidate filing periods, which are two weeks long beginning on the first Monday in July and ending on the second Friday after the first Monday in July. This would allow the candidate filing, challenge and withdrawal periods. County clerks would have time to print ballots and get them to overseas people in the required time frame.

I propose an additional amendment which allows us to create a write-in ballot processing board that would tabulate write-in ballots in accordance with procedures established by the Secretary of State. This board would consist of two-member teams, one Republican and one Democrat or opposite parties.

My third proposed amendment for section 18 of the bill is more of an administrative amendment. The language in the proposed bill addresses lines on the ballots and squares where the voter makes a mark. There are no squares, so I changed the language to make it clear; if a contest had a "None of these candidates" choice, the write-in option would simply be a line where the voter may indicate a preference as one of the write-in candidates by entering that person's name. Our equipment does have the capability to accept write-in ballots. If you select "write-in" as your choice, you can use the keyboard on the touch screen to type in the person's name. On the paper ballot, you would just write it on the absentee ballot.

SENATOR HORSFORD:

What about other qualifications? Residency, eligibility to vote, age, other things. How will that be confirmed if someone may write in a candidate?

SENATOR HARDY:

Section 12 addresses the declaration of write-in candidacy. Write-in candidates would be subject to the same rules and regulations as all candidates, including

the provisions addressed in section 8. They would be subject to requirements such as being registered voters and residents of the area they wish to represent.

SENATOR HORSFORD:

Is there a requirement under the Independent American Party, where they have to be approved under their party process?

SENATOR HARDY:

I do not know.

MR. LOMAX:

Candidates who file in this period could be Republicans or Democrats. I would assume they would probably be filing as Independents. It would be like Alaska where a candidate files as an Independent and runs in that manner. I do not know for certain.

SENATOR HARDY:

I concur with that. I am flexible if the Committee would like to figure that one out. It would behoove us to have an opportunity to add people on a ballot. This bill is about allowing people to have an option.

CHAIR PARKS:

Senator Hardy, we will ask our Legal Counsel to look into the issue.

JANINE HANSEN (Executive Director, Independent American Party):

I will respond to Senator Horsford's question. All third parties that are minor parties have, instead of primaries, state conventions, and their candidates are chosen at those state conventions. I do not know how the write-in would affect Independent Americans, Libertarians or whatever minor party. That is a closed process in our state convention, which determines who goes on our ballot, and we notify the Secretary of State. The candidates have to file the same as Republicans and Democrats in the same filing period.

CHAIR PARKS:

Senator Hardy, I have one other question that deals with the situation in Alaska. I think one of the conditions there was to spell the candidate's name correctly, and not everyone was certain how to spell the name "Murkowski." Is this issue addressed in the bill?

SENATOR HARDY:

Yes. It is addressed in the bill. If the intention of the voter was clear, it would be cast that way. This is not a handwriting issue with the machine.

REBECCA GASCA (Legislative and Policy Director, American Civil Liberties Union of Nevada):

We support this bill. We believe write-in candidacies or the allowance of write-in candidates by states helps voters fully engage in the process and permits them to express their views at the ballot box. The reference to the Alaska election is the best one in modern day. If the state of Alaska were to not allow write-in candidates, they never would have known the true desires of the constituency within their state. By expanding this to all types of voting in this State, we will further enfranchise voters which will help participation of the electoral process as a whole. We hope you will support this in its passage.

SENATOR HORSFORD:

This bill only applies to general elections. How does that encourage participation if someone can get to the general and not even participate in the primary? All other people have to file in the primary, go through that process and make it through to be considered—that is our political electoral process. This would allow an individual to jump that and be written in for the general election. Why is that there? Is that the same in other states like Alaska?

MS. GASCA:

I do not know the structural setup of other states insofar as they have their primaries versus generals. Some states have open primaries and others have closed primaries. Some states allow write-ins and some do not. From our perspective, while this may only apply to general elections, it is certainly a good step. Everyone on the Committee and in the room would agree Nevada has an interesting landscape when it comes to participation in elections. Our registration of the large parties versus no party is fairly similar. Many voters in this State are not registered in the Democratic and Republican parties. The way the primaries are set up, people not registered with a party are prohibited from voting in the primary election. The question of it only applying to the primary versus the general is a good one and merits more consideration. This bill is a good first step and does allow voters the opportunity, in the case where someone is knocked out in a primary, to say this is not the will of the people as a whole.

CHAIR PARKS:

We will close the hearing on S.B. 269 and open the hearing on S.B. 344.

SENATE BILL 344: Enacts the Agreement Among the States to Elect the President by National Popular Vote. (BDR 24-1269)

MICHAEL D. HILLERBY (National Popular Vote Inc.):

I am here representing National Popular Vote Inc. I have asked a guest to explain the bill, the concepts behind it and why it has been brought forward. I have found it to be an interesting idea worthy of discussion. It is a fairly simple question: Whether you think the person elected U.S. President should be the candidate who receives the highest number of votes. Senate Bill 344 would enact an interstate Compact that would make that happen once the requisite number of states became part of the Compact.

GREGORY G. AGHAZARIAN (National Popular Vote Inc.):

Senate Bill 344 would guarantee the Presidency to the candidate who receives the most votes in all 50 states and the District of Columbia. This bill has passed in 31 legislative chambers in 21 jurisdictions throughout the Country. Recently, in the state of New York, on a 52 to 7 state senate vote, Republicans supported the bill 22 to 5 and Democrats supported it 30 to 2. This bill is garnering bipartisan support throughout the Country. We have been endorsed by over 2,000 legislators. The bill has been enacted in jurisdictions possessing 74 electoral votes; 27 percent of the 270 electoral votes necessary to activate the law.

Why is this necessary? Why are we talking about a National Popular Vote? The current system in 48 states is the winner-take-all system. The winner-take-all system is where in a state, if a person running for President gets one more vote than the other opposing person, that person gets all of the electoral votes for that State. The winner-take-all rule has permitted a candidate to win the Presidency without winning the most popular vote in the Country 4 times out of the 56 Presidential elections. That is 1 out of 14 times.

In 2004, a shift of 60,000 votes in the state of Ohio would have elected John Kerry over George W. Bush. George W. Bush carried the United States by over 3 million votes. That only garnered him a margin of 15 electoral votes. Sixty thousand votes translate into one or two households per precinct in the state of Ohio. Had that shifted, we would have a tremendous outpouring of



concern over the mechanism of the state. Presidential candidates have no reason to pay attention to the concerns of voters in states where they are comfortably ahead or hopelessly behind.

In 2008, candidates concentrated over two-thirds of their resources in six states. Fifteen states garnered 98 percent of the attention. In 2008, Nevada was a battleground state. Being a battleground state is a fleeting time. Not long ago, in the 1960s, the state of New York was the battleground state. In 1966, a host of small states banded together and filed a lawsuit against New York because it was using the winner-take-all system. The U.S. Supreme Court did not want to hear it because the U.S. Constitution clearly provides that each state has the plenary power to decide its electoral votes on its own. Framers of the Constitution had Article 2, section 1 in mind. They did not want Washington, Congress and the bureaucracy in Washington to determine the President or how to run the election. They left it to the individual states on how to appoint their electors.

The Constitution provides for an Electoral College. The Constitution provides that states shall appoint their electors in a manner they choose. In the very first Presidential election, only three states chose a winner-take-all system; in the second, none of them did. This is a testament to the power of the states. Over the years throughout the Country, there have been different methods and mechanisms. Right now, 48 states choose to use the winner-take-all system, whereas two states, Nebraska and Maine, use a congressional district method. In each state, each one of those rules is on the books by action of the state legislature.

Under the National Popular Vote bill, all the electoral votes from the enacting states to the Compact would be awarded to the Presidential candidate who receives the most popular votes in the 50 states plus the District of Columbia. This bill would take effect only when enacted by states possessing the majority of electoral votes. That is enough electoral votes to elect the President—270 votes. What does this bill do? It preserves the Electoral College. This bill does not, cannot and will not affect the operation of the Electoral College. That is provided for in the Constitution. This bill does not touch the Constitution.

This bill does not, cannot and will not affect Election Day, the mechanisms whereby the states report their election findings and the meeting of the Electoral

College provided by federal law under Title 3 of the United States Code. This bill ensures every vote is equal and every voter in every state will matter in every Presidential election. We have been endorsed by a number of states and editorial boards. In a recent poll, not a push poll, Nevada approves of this method by 72 percent. A book entitled *Every Vote Equal* by John R. Koza, Barry Fadem, Mark Grueskin, Michael S. Mandell, Robert Richie and Joseph F. Zimmerman has been delivered to every one of your offices. Please feel free to take a look at it; if you have any questions, we have a Website < <http://www.nationalpopularvote.com> > to answer your questions.

MR. HILLERBY:

Thank you for your time. We will be here to answer any question you might have later on.

TRENT ENGLAND (Director, Constitutional Studies, Freedom Foundation):

The people who support National Popular Vote wellmeaningly suggest this will benefit Republicans, Democrats and every state. Everyone has a right to an advocate. All of these things cannot be true; perhaps all of them are actually false. I have submitted a law review by Tara Ross, a professor of election and constitutional law at Atlanta University ([Exhibit E](#)) that explains concerns about the interstate compact mechanism.

This is not a question about politics, in terms of an individual Presidential election. The question is that if you change our election system, like an ecosystem where you make some significant change, how does it reorder itself? What incentives would be changed if you move from the current Electoral College system? Right now, 48 states do winner take all and 2 states do a congressional district method. The suggestion that if you enact S.B. 344, every voter will suddenly be equal is not true in my opinion.

You are all elected from single-member districts. What this bill does is turn the entire United States into a single-member district for President, wiping away state lines in Presidential campaigns. Campaign strategy, whether under the Electoral College system or under National Popular Vote, is about treating voters unequally.

If you turn the entire Country into a single-member district, voters will still be treated unequally. Every voter will not see the same commercials or hear the same message. Campaign consultants, pollsters and strategists are all about

slicing and dicing up the electorate according to every demographic, racial and socioeconomic factor they can come up with to help them. All National Popular Vote does is give more power to those people. They do not have to pay attention to state lines first before they draw their own boundaries right from the beginning. It gives more power to campaign strategists to discriminate among voters. Every voter would not be equal.

What happens in the long run? Let us look back at the four historical elections mentioned earlier that were supposedly travesties, where the Electoral College caused someone to win the Presidency who supposedly did not deserve it because he did not win a plurality.

In 1877, you have four states with disputes over electors. Because of the Electoral College, three disputes in particular are contained within states and go to Congress. The states are disputing slates of electors in some of the states, and Congress investigates. It appears the Democratic candidate, Samuel Tilden, won the most popular votes. Congress determined Tilden's victory was the result of gross election tampering and fraud—the suppression of African American and Republican votes in three Southern states in 1876. If it were not for the Electoral College, this could not have been sorted out.

In the National Popular Vote world, the vote suppressors in the South would have won. Tilden would have won the election. Instead, Congress, through the Electoral College process, elects Rutherford B. Hayes. National Popular Vote Inc. says it is a tragedy; I think it is a triumph.

In the election of 1888, Grover Cleveland loses reelection even though he wins the most votes. Grover Cleveland has hyperintense support in the South, the reason why he wins most votes nationwide. The Democratic strategy was not moderate and national enough to win at the Electoral College. National Popular Vote Inc. says this is a tragedy.

I say the Democratic Party might look very different today if not for the incentives created by the Electoral College. Grover Cleveland comes back in 1892, through more outreach in the North and moderation within the Democratic Party, and becomes the only person to win two nonconsecutive terms as President.

The reason the National Popular Vote has come up is because of the 2000 election. John Koza, who came up with the National Popular Vote Compact, told the *New York Times* several years ago that this is an end run around the Constitution, a way to get rid of the Electoral College without amending the Constitution. This is a clever political strategy based on a good reading of the Constitution.

In 2000, either candidate could have legitimately been President of the United States. There is a tied Country. Both candidates had more claim to the Presidency than Bill Clinton. Bill Clinton won with smaller pluralities, particularly in 1992. His plurality is a national one; the Electoral College forced it to be so. In the National Popular Vote world, you could garner the same 43 percent from a small region of the Country. Bill Clinton was considered the legitimate President of the United States because of the Electoral College.

If you move to a National Popular Vote, if you adopt this plan, you fundamentally change the incentives that affect the decisions made in our national political structure, parties and national campaigns. The key question is: What does America look like if you make this change? What happens?

If you look at history and the elections that National Popular Vote Inc. cites as gross anomalies, you discover they are some of the greatest triumphs of our constitutional system. Our Website <<http://www.saveourstates.com>> is not for some arbitrary reason. In this instance, states have served us well, creating a constitutional system to elect the President of the United States, which ensures geographic balance in more moderation than you would otherwise have.

JANINE HANSEN (State President, Nevada Eagle Forum):

This National Popular Vote would essentially make Nevada a zero in the Presidential election. The Electoral College gives small states an added benefit in representation in the overall election of the President. The Electoral College forces a candidate to appeal to the whole Nation, not just one region of the Country, not just to those states that have large populations like New York, California, Illinois, Florida or Texas. It forces a count of all the electoral votes and makes every person's vote in every state important.

You all are familiar with the way we amend the Constitution, which is in Article 5. It takes three-quarters of the states or 38 states to amend the Constitution. National Popular Vote, S.B. 344, would essentially circumvent the

amendment process for the Constitution by creating a Compact with the states. As few as 18 to 21 states could determine this national Compact without a majority of the states participating.

We hope you will consider that if this is the way we should do it, then we should have a traditional constitutional amendment in order that all the states might participate in the process and not just the minority of those that have large populations. This is an important issue in securing our future to be sure all votes in every state count.

I have written testimony explaining why you should not support S.B. 344 ([Exhibit F](#)).

LYNN CHAPMAN (State Vice President, Nevada Families):

When you vote for a Presidential candidate, you are really voting to instruct electors from your state to cast the vote for the same candidate. Should none of the candidates win the 270 electoral votes, the Twelfth Amendment of the Constitution kicks in. The Electoral College ensures that no single faction or issue can elect a President because he must win from a diverse amount of states to be elected. The Electoral College encourages Presidential candidates to take their time, money and policies to the whole Country rather than to the states with large populations.

Phyllis Schlafly stated, "Another advantage of our unique Electoral College is that, except as a last resort, it keeps the meddling fingers of Congress out of the election process. ... The Electoral College is the only function of our national government that is performed outside of Washington, D.C."

I would like my vote to count, and it is done through the Electoral College process. It has been in place a long time. Please make sure you think about the people of Nevada; we need to have our voice. The Electoral College process is our voice. This is why we oppose this bill.

RUSSELL BEST:

I agree with Ms. Hansen on the Constitution issue, which protects our State. I look at things differently than some of you because I look at it monetarily. Right now in Lyon County, we have 40 percent unemployment. Everyone is hurting for money, taxes are down, you cannot spend like you would like to. This bill will hurt both Democrats and Republicans financially. National Popular

Vote Inc. sits here and says it is not going to affect you one way or another; it does. It will affect you in the pocketbook. If you are a little state, you are not going to matter. What kind of money do you think you are going to get from the federal government when it comes down to dollars and cents? It is going to be zero eventually. It is headed downhill, and we already have a sliding slope. We need to stop it.

JIM SALLEE:

This bill says "an act relating to elections; enacting the Agreement Among the States to Elect the President by National Popular Vote." We do not need an agreement among the states. I believe this bill is nothing more than an attempt to change Article 2 of the U.S. Constitution by fiat. We have a Constitution we should follow. A few years ago, there was an attempt to get the state legislatures to call for an Article 5 constitutional convention for the purpose of term limits and later, a balanced budget amendment. It almost happened. Constitutional scholars across America revealed that a constitutional convention could not be limited to one issue because the entire Constitution would be up for grabs. We could have lost our entire document.

The states began to repeal their call, protecting our Constitution. Thomas Jefferson said, in matters of power, let no more be said about the confidence of men that bind them down from mischief for the chains of the Constitution.

The men and women who join the military take an oath to preserve, protect and defend the *Constitution of the United States of America*. They will give their lives, if necessary. You as Legislators have taken the same oath. You do so with your vote. Please vote no on this bill.

BETTYE LEMON-GILMOUR:

I have heard a lot of good testimony against this bill. Everyone has already said things that I had in my prepared statement. One thing that I have not heard anyone mention was George Soros. I have seen the fingerprints of George Soros all over the legislation. I would like to quote from a Matthew Vadum writing in *The American Spectator*. He writes about this Hungarian-cum-American, George Soros. He writes, "A group backed by Soros is gearing up to steal the 2012 election for President Obama and congressional Democrats by installing left-wing Democrats as secretaries of state across the nation. From such posts, secretaries of state can help tilt the electoral playing field."

The vehicle for this plan, the hijacking of our democracy, is a below-the-radar nonfederal 527 group called the Secretary of State project. The entity can accept unlimited financial contributions and does not have to disclose them publicly until well after the election. I see this bill as an end run around the Constitution which has served us well for over 250 years. The Electoral College was specifically included to protect small population states, such as Nevada, by giving us a voice in the electoral process of electing our President. This measure completely obliterates it. A few populous states would wind up electing the President. In the immortal words of one of the great Founding Fathers, Samuel Adams, "It does not require a majority to prevail, but rather an irate, tireless minority keen to set brush fires in people's minds." I am here to tell you there is a vast irate tireless bunch of folks keen on setting brush fires of freedom in the minds of citizens, and we will not stand by and watch our great State and Country be destroyed by legislation, S.B. 344.

JOHN WAGNER (State Chairman, Independent American Party):

We are opposed to this bill. The Republicans are talking about having influence on next year's caucus; they will not have any influence on the caucus. Why even bother to come to Nevada? The candidates are going to come to Nevada and make a few speeches to people who are not going to elect them anyway. Why are they not going to California, where they have all those votes, or Ohio, Pennsylvania, Massachusetts, New York, New Jersey?

The demographics of the vote would definitely shift and the smaller states, like Nevada, would become zero. Why waste time and money campaigning in Nevada or even Las Vegas, who might carry the State, if the states each had a vote? Our votes have been very close. We have gone back and forth with our electoral votes. It will continue to go this way, but if we do not count, why bother to vote?

MS. GASCA:

I have submitted written remarks that are on Nevada Electronic Legislative Information System ([Exhibit G](#)). I would like to add one practical example. If the State were to join this Compact, Nevada's electoral votes would be given according to voters outside of our State, which is the core of this issue. Even if all Nevadans were to have voted for U.S. Senator John McCain last election season and all states in the Compact voted for U.S. Senator Barack Obama, our electoral votes would have gone to Senator Barack Obama, regardless of the fact that every single Nevadan voted for Senator John McCain. From our

perspective, that is problematic. Additionally, this bill would in practice prevent any third party from ever garnering electoral votes. This issue is another problem that has not been brought up. Our additional remarks are on the record in writing, [Exhibit G](#).

JAMES SMACK (Chairman, Churchill County GOP):

I am speaking more today as a private citizen and a constitutionalist in my concern about S.B. 344. I am against the bill. I am concerned about it as a Nevadan. I do not want to see Nevada legislated into irrelevance by this bill. Nevada is in a unique position as one of the swing states. In the last few elections, Nevada has made a determination on policy and procedure as far as the President of the United States goes. The President of the United States or whoever is running for President needs to be concerned about issues that affect Nevadans—like Yucca Mountain, geothermal and those types of things. They need to educate themselves on those issues.

If Nevada was to become part of the National Popular Vote, these politicians would not have to worry about anything; they could just stick Yucca Mountain here if they wanted to because what are we going to do? We would have diluted our influence. Only 10 or 12 states can really come out and say they are swing states in just about every election going forward. Nevada has been in the unique position over the last 100 years to have gone for every Presidential winner in every single Presidential election, excepting 1976.

The 6 electoral votes we have in 2012 are going to be critical because they will be 6 out of 170 or 180 electoral votes in contention. There will not be contention in Texas, New York, Massachusetts or a number of other states. The larger states of contention will be Florida, Ohio and Pennsylvania. The smaller states of contention will be New Mexico, Nevada, Oregon and a couple of others.

Presidential candidates are going to spend money in these states. I had the opportunity to work in western Nebraska in October and November of 2008. I got to see television from western Nebraska and Colorado. The television from western Nebraska had absolutely no mention of a Presidential campaign—no candidates coming to western Nebraska to speak and talk to the people about the issues of western Nebraska. If you watched the Colorado stations, every other day there was someone coming to speak such and such a community—U.S. Senators Joe Biden, Barack Obama, John McCain, and



Governor Sarah Palin. They were coming to speak to the issues of Colorado. Why? Colorado was a swing state and Nebraska was not. My concern is I do not want to see our voice get diluted any more than it already is. We are not a big state; let us not take away all the power we have.

DOUG BUSSELMAN (Executive Vice President, Nevada Farm Bureau Federation): Nevada Farm Bureau has organizational policy which states our support for the retention of the Electoral College for Presidential elections and electors being required to vote for the candidates to which they were pledged. From our perspective, the crux comes down to proposed deletions in this bill. Take page 5, sections 2 and 3; in essence, the deletions direct that it does not really matter how Nevada voters vote because whoever is selected through the overall process is who our electoral voters should vote for. That is the issue for us.

A lot of discussion about this bill suggests we need to have an agreement of the states. We have an agreement of the states now. It is called the United States Constitution. If you would like to change it, there is a process in the system to make those changes. This is an end run around the process. This bill takes away from the ability of Nevada voters and any voters in any state from having the say they deserve to have in selection of their President.

JUANITA COX (Citizens in Action; People Organized for the Next Generation; Storey County Republican Central Committee): You have received my written testimony ([Exhibit H](#)) which I e-mailed on April 1 for the Storey County Republican Central Committee.

Why do we have a United States Senate or a United States Congress? Simply because there are two forms of voting. That is what we are dealing with here. We are not dealing with the popular vote, like Congress, but the Senate where everyone actually does have an equal opportunity. In 2012, the State of Nevada will be important. Nevada is the only Western state to have an early caucus. How did we get to have the early caucus? If this had already been implemented, we would not have that opportunity. No one would even care about Nevada.

It is a small David in the Goliath of the larger states. If S.B. 344 passes, mark the election of 2012 as our last little drop in the big pond. We will become absolutely irrelevant in future Presidential elections. Thank you for considering my testimony against S.B. 344.

KIM BACCHUS:

I am here to reiterate that our state's rights have already been dramatically impacted by the passage of the Seventeenth Amendment to the Constitution, which took away the right of state legislators to elect our national senators. Our United States senators no longer specifically represent the states but are elected by popular vote by the entire Country through monetary donations. You will further reduce Nevada's relevancy in the national scene if you take away our electors from the Electoral College and turn them over to California or New York or whichever state has the largest population, rendering Nevada nonexistent on the national scene. I am in opposition to S.B. 344 and in support of the Tenth Amendment to the Constitution and the rights of Nevada citizens.

JIM DEGRAFFENREID (Chair, Nevada Republican Party):

Everything that I had in my prepared remarks has been covered. We will go on record as saying "Me, too." We ask the Committee to protect Nevada's voice by opposing this legislation. I have provided written testimony explaining why I am not in support of S.B. 344 ([Exhibit I](#)).

CHRISTINE BURNS (Nevada Legislative Affairs Committee):

I am here as a private citizen and as a member of Nevada Legislative Affairs Committee. I would also like to do a "Me, too." I would like to point out one thing. If National Popular Vote Inc.'s goal is not to get around the Electoral College, then why would the backers put in section 1, Article IV, line 7 on page 4, saying "This agreement shall terminate if the Electoral College is abolished." If the intention is not to abolish the Electoral College, there would be no need for the designation in the bill.

I ask you to oppose this legislation as a way of protecting our State rights.

CHAIR PARKS:

I ask Mr. Hillerby and Mr. Aghazarian to come forward and give a wrap-up.

MR. AGHAZARIAN:

In response to questions and comments in opposition that revolved around certain points, the concept of an end run around the Constitution is far from the reality. The National Popular Vote Compact preserves the Electoral College. The National Popular Vote Compact uses the power each state has under Article 2, section 1 of the Constitution to appoint the electors any way they wish. You join the Compact by a vote of the legislature. The terms of the

Compact will allow the State to get out of the agreement. The state power is preserved. This is not like the Seventeenth Amendment of the Constitution; in fact, the Seventeenth Amendment is the exact opposite. The Seventeenth Amendment took away the state power for state legislators to appoint senators to Congress. That vital state power the Constitution provided was lost by constitutional amendment.

National Popular Vote, S.B. 344, is not amending the Constitution. It is not stripping the State of Nevada, nor any other state that joins this Compact, of the state's power to appoint electors in the way the Founding Fathers deemed fit. This is a state power.

Second, I will address the concept of the big states and small states. Thirteen small states have three or four electoral votes. In the last few elections, 12 of those states were part of the two-thirds that no one talked to, visited or spent money in. This is not because they were small but because they were reliably red or blue. The one state of interest was New Hampshire. For a couple of elections, New Hampshire was a swing state. You cannot always count on it. Right now, Nevada is a swing state and gets that attention. In the last Presidential election, then-Senator Barack Obama beat Senator John McCain 55 to 43. Another election with that margin, and Nevada's swing state status will be no more. That attention will go away. States like Texas, New York and California are treated as zeros in the Presidential election. They are reliably red or blue. The only way for a state to ensure not only local issues but issues of the Nation are addressed by a President is to enter into the National Popular Vote Compact.

There was a brief mention of George Soros. George Soros is not involved in National Popular Vote—that is complete fiction. As a former Republican Caucus Chair and a major player in California Republican politics, I find that is an offensive statement.

From time to time a state, a member of this Compact, will cast votes but the Nation goes the other way. When we elect a Governor in our State, we go to bed election night wanting to know who won Governor. We do not go to bed wanting to know who won our county or precinct. We want to know who won the big enchilada. The same thing is true for the President. When the people in this Country—Nevadans, Oklahomans, New Jerseyites, Delawareans, you name it—go to bed, they want to know who won the Presidency. That is what this bill

does. It ensures that every voter in every election and state will count. The issues of every American will be on the table for the Presidency. This is why I am here to talk to you about S.B. 344. I urge your support.

CHAIR PARKS:

Ms. Burns made some reference to the fact that in the bill, the Electoral College would cease to exist.

MR. AGHAZARIAN:

The provision was put in the bill because of some talk that we are trying to get rid of the Electoral College; this is a first step or an end run. This is not what we are doing. If for one reason or another that happens, this Compact would go away. We are not advocating the abolishment of the Electoral College. National Popular Vote would go away if that happens. I cannot think of a more blunt, to-the-point way to put it. We support the Electoral College, the Constitution, the federal laws that enable the states to have elections and the concept of federalism which gives each state the power to conduct elections the way it sees fit—we see all those as vital state powers. We do not want to attack, impugn or impinge the Electoral College in anyway. We believe this so much that in the future if some other group does something to the Electoral College, we will step back—our Compact goes away.

LESLIE HAYWORTH:

I am a citizen of Clark County. I do not believe we should allow the people in favor of this bill to make final comments. We want to make sure the electors consider all those opposed to this bill. Let them be considered by each Legislator. Those in opposition should have the final say or equal say as the last person who is in favor of this bill. Legislators need to consider all the opposition expressed, including monetary people, Mr. Soros and those mentioned. These issues need to be considered. Truth is what we need to get back to and have in this Country. I want to save this Country by making sure Legislators do everything fairly. They need to consider those opposed to this bill as strongly as those in favor of it.

CHAIR PARKS:

We will close the hearing on S.B. 344 and move to S.B. 304.

**SENATE BILL 304**: Provides for redistricting of election districts in Carson City and the Cities of Henderson, Reno and Sparks, contingent upon voter approval. (BDR S-731)

SENATOR SHEILA LESLIE (Washoe County Senatorial District No. 1):

I had a very similar bill last Session which made it through the Assembly but not the Senate. A bill about good democratic principles is especially appropriate to take up in this Committee, this Session, in terms of redistricting. This is when people are most interested about how wards or districts are drawn and how people are elected. This bill does away with ward voting in local government elections. Ward voting is when candidates run in the primary based on where they live and in the general election, they run citywide or countywide. I do not think that is fair. It prevents people from electing their own representative.

For example, each of us ran in a defined, geographical district. We all know exactly where our district lines are and who lives in the district. When you get an e-mail and scroll down to see where the address is, you know if that person is your constituent or not—it is a good thing. You are more responsive to the people in your district; they are your constituents. It does not mean you ignore the rest of the State or the needs of other people outside of your district, but it does mean you have a more personal relationship with your constituents.

Imagine in your own case if in a primary election you run in your district and you are one of two candidates to come out. Then in the general election, people in the Reno area are the deciding factor on your Las Vegas representative. It does not make sense on a State, county or certainly not on a city council level, where issues are even more defined.

When considering this bill, I asked the Legislative Counsel Bureau to research where there was still ward voting in Nevada. That is why these particular cities are in this bill before you. These are the last four entities in our State that do not elect their representatives by ward or district. You might recall when we changed the situation in North Las Vegas. In that bill, the Legislature changed it and the voters ratified it. The voters overwhelmingly agreed with it, close to 80 percent of the vote.

I have put a provision in this bill to require voter approval. I personally do not think it is needed, but it seems to alleviate opposition. The people opposed to this bill are in local elected offices now. You will hear today from people who

have run for office and not been able to compete with the incumbent who was able to raise more money to run citywide. This bill could help underfunded and minority candidates. This bill is about people being able to elect their own representative.

SENATOR SETTELMAYER:

Would this require all cities, including Sparks and Reno, to put this issue on the ballot?

SENATOR LESLIE:

That is my understanding, Senator.

SENATOR SETTELMAYER:

I see where it says it would be good for the next general election. I would hate to have voters refuse this, and then have certain individuals continually bring it back again and again.

SENATOR LESLIE:

They might do that.

SENATOR SETTELMAYER:

Does the language give the ability to put this on a ballot forever or does it only allow it to be placed on the ballot once?

SENATOR LESLIE:

My understanding is that City Council could vote to put it on the ballot any time they want. For example, when this issue was last on the ballot in 1992, it was a tie vote. Nothing prevents people from bringing this issue back over and over again. My prediction is you will see this issue again until it is changed. A lot of people, like me, believe this is in violation of the Voting Rights Act. This issue is not going away.

SENATOR DENIS:

I remember the decision with the North Las Vegas issue. The deciding factor for me was when an individual who could not raise enough money to do a citywide campaign focused on a neighborhood with higher voting percentages and not surrounding neighborhoods. It is difficult to get citizens who do not vote to vote if the candidates do not come to them.

SENATOR LESLIE:

I agree with you. It confuses people. People do not understand why they are not voting for the person in their neighborhood. It is difficult to engage people in local races. Neighborhood folks feel their vote does not count because of the rest of the city. We have had this situation in Reno many times where the rest of the city ends up deciding the representative. I do not like that, and a lot of people do not like it either.

ASSEMBLYMAN PETER LIVERMORE (Assembly District No. 40):

I represent two-thirds of Carson City and a little part of Washoe Valley. I am in support of S.B. 304. In particular, section 15, which is an opportunity to have the citizens of Carson City decide if this is how they want their charter amended in the process of electing members of the Board of Supervisors.

I am a former member of the Board of Supervisors, elected three times to the Ward 3 position. I am not looking to go back and be reelected as a Supervisor to a ward again. In my term on the Board of Supervisors, the Carson City Charter Committee and the Board of Supervisors had debated this issue and a couple of other issues where no bills were brought forth. I believe the Charter Committee heard this issue four times in the biannual meetings. Two times it made recommendations to the Board and twice it did not; neither time did the measure reach the Legislature.

I am an individual who believes in the public's participation in its right of government. In this case, this is the right of government, how to elect and select your representative. I have served in the south end of Carson City. Because of where I lived, people thought I represented all of the south end of Carson City. I represented Ward 3, which is for the benefit of all the people in Carson City. This bill would clearly identify the representative, if it is the only name on the ballot upon which to vote in the general election.

SENATOR HORSFORD:

Assemblyman Livermore, thank you for joining Senator Leslie. It is good to see combinations of interests joining hands. I support this bill wholeheartedly. We had this legislation last time. Since we are in the redistricting process, does the timing help with the process of determining ward boundaries now rather than at another time because we are all redistricting our boundaries?

SENATOR LESLIE:

I am not sure. When the cities actually draw their lines, it would go on the next general election ballot and be after the redistricting process. Maybe someone from the cities can answer this question. I could be completely wrong. That is an excellent question that may need clarification.

MR. WAGNER:

You can add a third party in favor of this bill. I live in Ward 1 in Carson City. I did have the pleasure of voting for Pete Livermore for his ward. It would have been better if I had taken care of my own ward. The wards in Carson City are fairly even. If this bill passes, you would only have to concentrate on one quadrant of the City instead of all the quadrants, spending less money to run for office. When I first came to Carson City, I asked elected officials about this issue, and they were not in favor. I am happy to see this bill, and I support it. I hope everyone on the Committee votes for this bill.

ANDREA "ANDE" ENGLEMAN:

I am a 33-year resident of Carson City. In 1992, I was running the Nevada Press Association and, therefore, could not be visible in anything other than issues that affected the press. As a Carson City resident, I was concerned about the fact that we were not voting by ward and that people did not even know their representative because "the boys downtown," as they say in Carson City, were running the elections. We managed to get an advisory ballot question on the ballot in 1992 that literally tied, 8,504 to 8,504. At that time, I could not come out and say anything or pay for a recount, so it just died.

Since that time, the Carson City Charter Review Committee has not been able to get the Board to put it back on the ballot for a vote by the people. I fully support this bill. It is desperately needed. It will give the public a choice they need. In Carson City, the Charter Review Committee is to take suggestions from the public and bring them to the attention of the Board of Supervisors. It is up to the Board to determine what to bring before the Legislature. If the Board says no, then the Legislature does not get it—people have no access.

Recently, people have given up going to the Charter Review Committee; instead, they go directly to Legislators to try and get things done. Senator Leslie pointed out the argument that if they are elected in their wards, they will not see the City as a whole. You are elected from all over the State to come together and see the State as a whole.



MARIO DELA ROSA (Community Organizer, Progressive Leadership Alliance of Nevada):

I represent the Progressive Leadership Alliance of Nevada. We support this bill. This bill brings to light another problem. As you can see on the chart ([Exhibit J](#)), there is a significant percentage of color living in three of the four cities. In three of the cities, not one person of color is on the city council. That is a problem because we do not have representation. The population of color in the Reno is 23 percent, Sparks is 21 percent, Carson City is 16 percent and Henderson is 20 percent.

RON DREHER (Peace Officers Research Association):

I am representing the Peace Officers Research Association and myself today. We are in support of S.B. 304. We thank Senator Leslie for again bringing this bill forward. In 2004 and again in 2008, I ran for the Reno City Council. The issues come down to what you have already heard. Everybody in this State gets districts they run in. You are responsible to the constituents in those districts. There is no problem in doing the same thing for the wards listed in this bill. I am concerned with section 7 of the bill where the City of Reno would allow the vote of the people to determine whether or not we have the same rights as all of you have. Last Session, ex-Senator William Raggio stated he thought it was okay that you all ran in your districts the way you run in the Senate and Assembly, but he saw it differently in the City of Reno. Why would the ward be different? In the primary, it is easy to reach our wards; however, in the general election, it comes down to being wealthy. You cannot reach out to voters and do all the things you have to do to run a successful campaign. I urge this Committee to pass S.B. 304, which will provide some equality and give the voters the opportunity to share their opinions. They will do the same thing that you all have with districts. Having this legislation would work well for us.

BRANDI ANDERSON:

I am a resident in Reno, and I ran for City Council in 2010. I am a lifelong Nevadan with deep roots in our community. I wanted to get involved, make a difference and get some new voices heard in our community. It was a difficult decision. As soon as I decided to run, I had many accolades from people in the know extending congratulations on running, but this is why you cannot win: you are not elected, you are not an incumbent, you do not have a lot of money. It will be difficult to raise money and get endorsements when you are not the incumbent because it is politically risky. They were right. I was successful in the primary but did not win; I got 43 percent of the votes. When I was in the

primary, it was frustrating because most of the people in my ward had no idea who represented them. They did not know what the Reno City Council did, decisions they made and how it affected their daily lives.

There are around 8,000 active voters in my ward and 50,000 voters in the general election. I raised \$30,000 and still got 43 percent of the vote. What frustrated me was when you have to run citywide, you cannot take the time to become an advocate and really be the expert on your ward. You need to know the general issues in your ward, but you really have to be an expert citywide, which should not be your job. My constituents should be able to contact me and ask me to solve a problem. I should be an expert on the different issues in my ward. I should lean on my elected peers to educate me about the other wards, so when we make collective decisions on behalf of the City of Reno, we can do it in the most educated way.

Running citywide dilutes the process and forces elections to be about marketing campaigns, special interest fund-raising, telling people everything they like to hear and a limited understanding of the community's challenges at large.

The way the system is set up now only discourages regular people like me to run. It was not an easy decision for my husband and me; we did not take it lightly. Ultimately, our decision was that if regular people do not run and set the example, nobody else ever will. It remains an entrenched set of candidates who constantly come to the surface and represent our community. I know many brilliant moms, business leaders and retired citizens in our community who want to get involved, but they are overwhelmed by the citywide process of having to run.

A ward-only approach creates a more fair playing ground for those who would like a chance to make a difference in our community. This approach takes the pressure of special interest bias out of the equation and allows candidates to get out and energize the voters. It makes local governing issues relevant and important to friends and neighbors and ensures that more people in our community will get to the polls. They will understand why their votes are important. Out of 200,000 voters in the City of Reno, 50,000 cast their votes for the City Council. Only 50,000 people thought it was important to know who was representing them on their City Council. The City Council's decisions determine whether we have safe parks, pools, adequate police and fire, serviceable sewers and good roads. If you change the system in these

four different communities like it is statewide, it would make it easier to energize and educate those voters on the different local issues.

THERESA NAVARRO (Chair, Progressive Leadership Alliance for Nevada):

I am the Chair of Progressive Leadership Alliance and a 38-year activist in Reno. My activism has involved communities of color and diversity. When I say communities of color, I am including brown, black, red, yellow and white communities of less fortune where people really do not get out and vote. In 2000, 2 other people and I registered 400 people in diverse communities in an attempt to get people voting. It was a success.

Once I explain about the ward and the citywide elections to people in diverse communities, they do not want to bother to run in their districts. When people in these communities hear they first have to do the walking and raise money in their ward to get past the primary and then raise additional money to get to the next level of running citywide, it is frustrating and stressful for them.

I am strongly in support of this important bill.

Last year, we did a racial justice report. We are working on it again regarding our legislative system with State Legislators and the Governor. Bringing these issues to the table and educating people in our communities is important. People need to get out and vote. It is important for them to show they can run for office. We can have a diverse community.

ROBERT JOINER:

I am here representing myself. I am a native Nevadan and a resident of Carson City. I did a citywide run in the last campaign. I come before you with that experience. It can be cost-prohibitive for someone to run a citywide campaign. In many cases, it precludes a grassroots effort. Unlike Reno, the primary being by ward and the general citywide, Carson City is citywide primary and general. When you knock on a door, the perception from people who have lived in Nevada their entire life is, "I cannot vote for you because you are running in Ward 1; I am in Ward 3." You have to remind them over and over the election is citywide, and I will represent you. The perception is you run by ward.

Many of us in support of this bill ask to make perception a reality. You represent everybody when you get elected, but you should and can run by ward.

I represented prior clients who were opposed to the bill last Session because of the nature of the bill—it was just going to be enacted. Those with charters wanted to go back through their charter or to a vote of the people. This bill today takes it back for a vote, let your city decide. Carson City did that in 1992 and it tied. We are just asking to do it again. Since 1992, the population has grown in Carson City; the time has come for a change.

I do support this bill. I support the testifiers before me who stated this is the best thing that could happen for those trying to run a citywide campaign. We would prefer to do it by ward.

LAWRENCE A. WERNER (City Manager, Carson City):

I am here to ask the Committee to consider an amendment to S.B. 304 that would not change the election method for the Carson City Mayor and the Board of Supervisors.

Carson City has considered changes to the election process several times over the past 19-plus years. The actual election occurred about 19 years ago. There have been multiple meetings of the Carson City Charter Review Committee and the Board of Supervisors on this matter. The clerk/recorder has provided some information to Senator Leslie about the election in 1992.

Since that election, the following public meetings were held on this issue: on July 18, 1996, the matters discussed by the Board of Supervisors resulted in no change to the election process; between May 26 and July 15, 1998, the Charter Review Committee held three meetings to discuss and recommend to the Board of Supervisors a change to nominate supervisors by ward in the primary election and then elect them at large. On August 20, 1998, the Board of Supervisors considered the recommendation and decided not to consider any changes until after the 2000 United States Census.

Between March 28 and June 27, 2000, the Charter Review Committee discussed a change in the Charter to allow the Board of Supervisors to set the method of electing the Mayor and the Board of Supervisors by city ordinance.

On June 15, 2000, the Board of Supervisors discussed the recommendation but rejected it because of concerns. One concern was the ease in which the method could be modified, resulting in confusion. Other issues the Board discussed were the geographic containment of Carson City, the small size of the City itself, and

the ability to not grow larger than the size today. Based on those issues plus the ease of campaigning at large in Carson City and wards similar in population and demographics, the Board elected not to change the election process.

From March 26 to June 25, 2002, the Charter Review Committee held three meetings to discuss recommending to the Board of Supervisors the concept of nomination by ward but election at large as discussed in 1998. On August 1, 2002, the Board debated the Charter Review Committee's recommendation but took no action.

On May 20, 2008, the issue was again brought before the members of the Charter Review Committee who debated the issue and voted not to send any recommendation on the matter to the Board of Supervisors.

The last action on this issue by the Board of Supervisors in 2000 was not to recommend any election process changes to the Mayor and Supervisors.

We would like to be left out of the bill. I would be happy to answer any questions.

SENATOR HORSFORD:  
Who appoints your Charter members?

MR. WERNER:  
The Charter members are nominated by the Board of Supervisors and legislative members representing Carson City; for example, Assemblyman Livermore and Senator Settlemeyer would have the opportunity to appoint members to the Charter Review Committee. Once nominations are provided to the Board of Supervisors, the Board selects the number of people they want. The Charter Review Committee is large enough to appoint everyone nominated.

SENATOR HORSFORD:  
The Charter Review Committee is appointed by the Board of Supervisors.

ROBERT CROWELL (Mayor, Carson City):  
I want to make the Committee aware we take these things seriously. We do enjoy local control. We do have vigorous disputes and debates at the Charter level. I am sensitive to the fact we have Pete Livermore from Assembly District 40, who spoke in favor of this bill. I think the record would reflect when the

Board of Supervisors took its vote to neither bring this before the Legislature nor have a public vote in 2000, the motion was made by then-Supervisor Livermore. I do not know why that opinion has changed now.

I would like to say I run citywide. I am in a different position than the Supervisors. On the other hand, I am sensitive to what happens in other larger jurisdictions. Senator Leslie and Senator Horsford make some good points. On the other side of that, Carson City is geographically compact. There is a history in this community; if you want to represent our community, you walk and represent all of us.

I am not here on behalf of the Board of Supervisors. My own personal view of the nature of Carson City is such that if you run and elect by ward, you detract from the ability and feeling we are a one-community group. I am also sensitive that under S.B. 304 as drafted, you could essentially get over 50 percent of the vote and win in the primary, ending up with your name as the only one on the general election ballot. This means you could get elected by your ward to represent the entire Carson City with a minimal vote count. This does not do anybody any good. From a community standpoint, it is better for us to act as a community; you nominate candidates who live in a ward but they run citywide. It gives the community more of a solidarity.

Ms. GASCA:  
We are in support of this bill.

CADENCE MATIJEVICH (Legislative Relations Program Manager, Office of the City Manager, City of Reno):

I am here to advise the Committee that the Reno City Council did take a majority position to oppose this bill. In addition to the question of election by ward in the general election in section 9 and eliminating one of our Council positions as an at-large position in section 8, I want to point out that section 7 of the bill would require us to create a sixth ward on our Council. The Council's feeling is the makeup of our Charter is a local issue. If they wish to put it on the ballot, as Senator Settelmeyer said earlier, they do have the ability. At this time, the Council is not hearing from constituents who wish to have the at-large position eliminated.

SENATOR HORSFORD:

I am interested in section 7 of the bill where it expands from five to six wards. Do you not have to look at this in a broader way because of redistricting? Voter rights issues are to be considered. It is not just an ideological view of "it is in our Charter and we do not want to change it." We have to follow the Voting Rights Act. I am concerned, as is the sponsor, that by not allowing for direct representation in a fair manner where one person, one vote matters, you may have a lack of representation. In Reno, you have zero representatives on your City Council who are of color.

MS. MATIJEVICH:

With regard to your question about redistricting, cities as well as the Legislature are required, following the Census, to look at the makeup of our districts and wards to ensure we have fair representation, and we will be doing that.

Every citizen of Reno is represented in a ward. We may change the boundaries of our wards following the Census. We will go through the process and look at the Census results to see if our ward boundaries need to be changed. I do not know if going from five to six wards would accomplish a fairer representation. If we find that is the case after examining the Census data, the Council would bring it forward to a vote of the people.

I am not certain our voters would understand that the ballot language in section 17 of the bill eliminates the at-large position on their Council. We have received feedback from our citizens stating they appreciate having the at-large position even though they have their ward representative. It gives them a second place to go on the Council with a third place in the Mayor. The at-large position gives citizens someone else who represents the city at large. I do not know if going to six wards addresses the issue you brought up.

SENATOR HORSFORD:

You have five wards now and one at large.

MS. MATIJEVICH:

And the Mayor.

SENATOR HORSFORD:

What is the reason for the one at large? What is the rationale for the City Charter having one at-large councilman?

MS. MATIJEVICH:

A councilman looks at the City as a whole rather than the ward-specific and provides balance and another point of contact for citizens.

SENATOR HORSFORD:

Do you think the five members who serve by wards do not consider citywide interest? We all represent districts, and then we come to the Legislature and make policy for the whole State. I am getting e-mails about the impacts in Mt. Charleston with the closure; this is in Senator Mike McGinness's district, but I am responding to those people. We do not just respond because it is our district, we respond because we are elected to the body that addresses those issues. I do not see anything in this bill that prevents that. In fact, it improves it by providing more representation, not less.

We need to look at the bill in terms of where we are today. Reno has grown; it is more diverse and very active. For people to be engaged, the more opportunities you can give, the fairer representation you will have. This bill does not dictate. It puts it to the voters to decide. In some ways you are saying, "We, the Council, have decided this; we do not want the voters to advise us." This bill does not direct it. If the voters of Reno say no, then this bill does not happen. The bill does not do as much as you argue it does. It allows the public to decide what type of representation they want in their City. I respectfully disagree with your position.



Senate Committee on Legislative Operations and Elections  
April 7, 2011  
Page 41

CHAIR PARKS:

We will close the hearing on S.B. 304. There being no further business, we are adjourned at 6:30 p.m.

RESPECTFULLY SUBMITTED:

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Michelle Ené,  
Committee Secretary

APPROVED BY:

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Senator David R. Parks, Chair

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

<b>EXHIBITS</b>			
<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.J.R. 9	C	Senator John J. Lee	SJR 9 Remarks
S.B. 269	D	Larry Lomax	Proposed Amendments to SB 269
S.B. 344	E	Tara Ross	SB 344: An Act Enacting the Agreement Among the States to Elect the President by National Popular Vote
S.B. 344	F	Janine Hansen	National Popular Vote– SB 344 A Dangerous Vote Stealing Scheme to Steal Presidential Elections
S.B. 344	G	Rebecca Gasca	Memo to Chairman David R. Parks and Members of the Senate Committee on Legislative Operations and Elections
S.B. 344	H	Juanita Cox	Written Testimony
S.B. 344	I	Jim DeGraffenreid	Written Testimony
S.B. 304	J	Mario Dela Rosa	Chart – Are Communities of Color Being Represented in Municipalities?