

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-Seventh Session
May 14, 2013**

The Committee on Legislative Operations and Elections was called to order by Chair James Ohrenschall at 4:13 p.m. on Tuesday, May 14, 2013, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman James Ohrenschall, Chair
Assemblywoman Lucy Flores, Vice Chair
Assemblyman Elliot T. Anderson
Assemblyman Wesley Duncan
Assemblyman Pat Hickey
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Andrew Martin
Assemblyman Harvey J. Munford
Assemblyman James Oscarson
Assemblyman Tyrone Thompson

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator David R. Parks, Clark County Senatorial District No. 7
Senator Tick Segerblom, Clark County Senatorial District No. 3
Senator Joseph (Joe) P. Hardy, Clark County Senatorial District No. 12



STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Kevin Powers, Committee Counsel
Karen Pugh, Committee Secretary
Ashlynd Baker, Committee Assistant

OTHERS PRESENT:

Caren Cafferata-Jenkins, Esq., Executive Director, Commission on Ethics
Janine Hansen, representing Nevada Eagle Forum
Lynn Chapman, representing Nevada Families for Freedom
John Wagner, representing Independent American Party
Louis Mendiola, EMT-II, Community Wellness Coordinator, Humboldt General Hospital, Winnemucca, Nevada
Jared Oscarson, NREMT-P, Captain EMC Clinical Services, Humboldt General Hospital, Winnemucca, Nevada
Tom Clark, representing Regional Emergency Medical Services Authority
Michael D. Brown, Fire Chief, North Lake Tahoe Fire Protection District
Donna Miller, representing Life Guard International
Rusty McAllister, President, Professional Fire Fighters of Nevada
Ryan Beaman, President, Clark County Fire Fighters Local 1908
Adam Plain, Insurance Regulation Liaison, Department of Business and Industry, Insurance Division
Patrick Irwin, Member, Committee on Emergency Medical Services, Department of Health and Human Services, Health Division

Chair Ohrenschall:

[Roll was taken. Committee procedures were reviewed.] We will begin with Senate Bill 228 (1st Reprint).

Senate Bill 228 (1st Reprint): Revises provisions relating to public servants.
(BDR 23-445)

Caren Cafferata-Jenkins, Esq., Executive Director, Commission on Ethics:

I will provide a brief overview of Senate Bill 228 (1st Reprint) and would then like to address any specific questions you may have ([Exhibit C](#)).

This is the clean-up measure originally proposed by Senate Bill No. 391 (1st Reprint) of the 76th Session, which unfortunately failed to leave the Assembly Committee on Legislative Operations and Elections. It has a number of small changes that are significant to the operation of the Commission on Ethics and clarifies some passages that need to be tightened up.

In section 39, we add a provision in paragraph 11 that prohibits a person from holding two positions concurrently, one in which they are essentially the boss of their boss and the other a subordinate. This came to the Commission's attention on a number of occasions where, for example, a teacher would run for a school board and that school board candidate would be successful and then challenged as to whether they could be effective when they need to disclose a conflict regarding their own compensation and then abstain from voting. The same can be seen with hospital board members. If a person is going to take a position as a public officer, and they would have operational control over their own position, this provision prohibits them from holding both positions. So if a teacher runs for school board and is elected, they would need to decide which of those positions they wish to continue with. That has been the position of the Commission in various hearings and this simply codifies it in statute.

Chair Ohrenschall:

I have a question from Assemblywoman Flores.

Assemblywoman Flores:

I would like some clarification on that statement. Are you saying that if a teacher is elected to the school board that she would have to choose between her career or serving on the school board?

Caren Cafferata-Jenkins:

If you look at section 39, on page 20, lines 25 through 29, it says "A public officer or employee shall not concurrently serve as a public officer or employee and hold a separate public office in which he or she exercises controlling influence over his or her employer, supervisor or the operation and activities of the agency by which he or she is employed." A teacher could serve as a city council member without conflict. However, a teacher serving on a school board who has authority over the superintendent or the principal of the school, who is her boss, would have a conflict. The Commission's opinions have articulated that this conflict would render her public service inappropriate, because she would need to disclose a conflict and abstain from voting in so many critical areas that she could not adequately serve in that publicly elected office.

Assemblywoman Flores:

We are asked to make those types of determinations on a daily basis. In the Legislature, we ask if the impact of our vote is going to specifically affect us or one of our family members, or simply have a general effect on the entire community. What you are saying is that she will have to give up her livelihood and career if she wants to serve her community in this capacity. Who is going to make that kind of a decision?

Caren Cafferata-Jenkins:

I appreciate that perspective, and we want to encourage public service. However, exercising that controlling influence over your boss, or exercising controlling influence over the operation and activities of the agency by which you are employed, is much narrower than passing a tax measure that might affect all people who pay taxes, such as you or your sister. I agree that the language is difficult and needs to properly reflect the intent that through an exercise of control one could have the ability to retaliate, if you will, against a boss. We have seen that in some hospital board cases that have come before the Commission on Ethics. I agree with you that no one is going to choose to give up their livelihood for a part-time school board position.

Assemblyman Elliot Anderson:

Would this provision be satisfied if an employee took a leave of absence from their position?

Caren Cafferata-Jenkins:

There is no provision for a leave of absence contemplated or articulated in this language.

Assemblyman Elliot Anderson:

I felt that might be a workable compromise. You could explicitly write the leave of absence to be in effect throughout the individual's tenure on the board.

Chair Ohrenschall:

Assemblyman Thompson and I are both public employees out of Las Vegas. How would this provision affect us? I do not think that we exercise any influence over the agencies that employ us, nor are we the boss of our boss, but are there not shades of grey here? How would this affect public employees who are serving in the Legislature?

Caren Cafferata-Jenkins:

I do not think that is a shade of grey at all in the way that the Commission intended this to be read, nor do I believe that it is even contemplated in the language that is here. The Legislature has no operational control over that agency, your supervisor, your employer, or the main public defender for your jurisdiction. I do not believe that relationship, as a public employee of the City of Las Vegas, and your public service as a legislator, are affected at all by paragraph 11 in section 39.

Chair Ohrenschall:

If you are the chief deputy district attorney and you are elected as an assemblyman or senator, you are not the district attorney, but you still oversee

a budget and a group of deputies under you. Do you think that would rise to the level of operational control that paragraph 11 contemplates or would the chief deputy still be allowed to serve in the Legislature?

Caren Cafferata-Jenkins:

Again, I do not believe that the chief deputy or even the district attorney would necessarily have their job under the operational control of a legislator. Period.

Chair Ohrenschall:

Thank you for that clarification.

Caren Cafferata-Jenkins:

Section 40 contains the most substantive change offered by S.B. 228 (R1) and that is the expansion of the existing cooling-off provision which requires a one year time-out between being a state employee or public officer, before one can become employed by that business or industry, essentially closing that revolving door with regard to local employees and public officers of local governments. The only opposition received when this bill was presented in the Senate was from the City of Reno, hence the amendment which is part of the packet uploaded to the Nevada Electronic Legislative Information System (NELIS) ([Exhibit C](#)). The amendment includes a transitory provision covering anyone who is a public employee or a public officer as of January 1, 2014. When the state cooling-off provision was put into place, that same provision was offered so that anyone accepting employment or being elected or appointed to office, goes in fully aware that there is a cooling-off provision. If someone leaves from public office in one jurisdiction and takes a position in another, the grandfather provision is broken.

Section 40 is not new language. It was brought in from two repealed sections of statute and consolidated into a single section. The main expansion includes local governments and the prohibition that exists in the current law for the state government employees.

Section 42 concerns public officers and employees contracting with the government. Recently, a matter came before the Commission and we learned that while there are prohibitions and restrictions on the contracts that local and state governments can enter into, as well as public employees and public officers, they are not cross-referenced and some were conflicting. Section 42 states that public officers and public employees should not have a business interest in a contract with government. But there are exceptions offered when, for example, the contract is an open competitive bid, or a sole-source circumstance where it is just not practical to contract with anyone but a public officer or employee.

Please note that the cooling-off period and the contracting prohibition both offer relief from the strict application of the law if the outcome is not contrary to public policy and does not interfere with continued integrity of the public trust.

The document that I offered as an exhibit ([Exhibit C](#)) includes text boxes that explain some of the other less substantive and less critical changes that are in the measure.

Chair Ohrenschall:

Are there any questions for Ms. Cafferata-Jenkins?

Assemblyman Elliot Anderson:

I wanted to talk more about section 32 and the current definition of "public officer." Could you talk about who you are trying to add in there? I am also concerned that the definition is unnecessarily confusing with other chapters in law. I have problems trying to reconcile if a definition is from the Ethics in Government Law or is it from the Office of the Secretary of State? I get a little nervous when I see changes to such a big definition.

Caren Cafferata-Jenkins:

Nevada Revised Statutes (NRS) 281A.160 is the current definition of "public officer," which has become problematic in my term as executive director of the Commission on Ethics. If you will recall, there was quite a bit of news coverage in southern Nevada when Dr. Dwight Jones was initially hired as the superintendent of the Clark County School District. The definition of "public officer", as it currently exists, does not include Dr. Jones' position because the charter for Clark County simply allows the school board to employ such persons as it deems necessary to fulfill its role. It does not establish the position of superintendent.

Nevada Revised Statutes 281A.160 required a two-part test. The first part is that the position is established in the constitution, statute, charter, or ordinance. Second, is more qualitative in that the position involves the exercise of a public power, trust, or duty. The change that we are offering is also referenced in the Secretary of State's measure Senate Bill 49 (1st Reprint), or at least I am hoping it is.

Assemblyman Elliot Anderson:

I do not believe it is.

Caren Cafferata-Jenkins:

That is important to note. The intent was that it be shared so that the definition of "public officer" be the same. It was the intent to harmonize the Secretary of State's definition with that of the Commission on Ethics.

Assemblyman Elliot Anderson:

I do not understand how the position of superintendent of schools is not a creation of statute. I frequently read statutes applicable to education and I can recall a number of places where I have seen "superintendent of schools."

Caren Cafferata-Jenkins:

Mr. Anderson, just for your edification that is not my application of the current NRS 281A.160, it is the Commission's. When Dr. Jones came before the Commission he was found not to be a public officer.

Chair Ohrenschall:

This new definition of "public officer" in Senate Bill 228 (1st Reprint), would it catch other employees and would they have to file financial disclosure statements under NRS Chapter 281?

Caren Cafferata-Jenkins:

First, I appreciate your use of the term "catch." Senator Hardy helped the Commission to establish its mantra as "we would rather teach than catch." Secondly, prior to 2011, the Commission on Ethics accepted financial disclosure statements. Now that is completely in the realm of the Secretary of State's Office. The idea is not to catch anyone, but rather to articulate that a public officer is anyone who is either identified in statute or authorized to be created in statute. I believe all of those people, with very few exceptions, already do comply with the Ethics in Government Law.

Chair Ohrenschall:

In the same vein, would the Commission need to decide on certain public employees as to whether they are public officers for certain actions and public employees for others? If, for instance, a deputy superintendent of schools makes certain decisions that would fall under the definition of "public officer" and then has other duties that would fall under the definition of "public employee," would the Commission need to look at the action and the exercise of authority?

Caren Cafferata-Jenkins:

That concept has been addressed by the Commission previously and it determined that if there is any public power, trust, or duty exercised, even if it is only some of the time, the person is a public officer for reporting and ethics

purposes. If that public officer on a planning commission is entitled to annual compensation of \$6,000 or more, then they are required to do a financial disclosure statement.

Chair Ohrenschall:

In section 33, the restriction against someone serving on the Commission who had changed political parties has been removed. As I understand it, that is a common restriction with many commissions and boards where there is a partisan breakdown. What is the rationale for removing that restriction?

Caren Cafferata-Jenkins:

Section 33, subsection 4 on page 12 of the bill states that "The provisions of NRS 281.057 do not apply to this subsection." The political party breakdown of appointment is that no more than four members of any one political party may serve on the Commission. *Nevada Revised Statutes* 281.057 prohibited an individual who was registered as an independent when appointed and then selected another political party from taking their seat on the Commission, despite the fact that they were selected as being an appropriate and valuable appointee. That was the impetus for this change. When no more than one political party may hold a majority, the changing of political party may or may not have an effect.

Chair Ohrenschall:

There is a change to regulatory power of the Commission in section 37 and I would like to hear why the change is needed. Why are current definitions that are established by case law in terms of gifts not adequate? I was wondering if you could opine a bit about that.

Caren Cafferata-Jenkins:

The Commission's subcommittee on NRS Chapter 281A wished to articulate in specific detail what sorts of gifts would be prohibited as they could tend to improperly influence a reasonable person in the public officer's position to depart from the faithful and impartial exercise of their public duties. Rather than make the wholesale and nonexhaustive list that was proposed in a measure in this legislative session, it was determined that it could be articulated more precisely through regulation with examples and broad categories of gifts that might be personal, rather than have a dollar figure. Section 37, subsection 1, paragraph (e) states, "Specifying the information sufficient to satisfy the disclosure requirements of subsection 1 of NRS 281A.420," we refer to the Woodbury opinion from 1999, which is to disclose such information necessary to put the public on notice that the nature and extent of the conflict and the effect of your action or abstention on you and your personal interests. We often find that the disclosures are not as substantive as we might like and we

decided to put those in regulation rather than in legislation so that we can respond more flexibly to the needs of the public officers to know what is required.

Chair Ohrenschall:

Thank you. Senator Parks has arrived and I want to welcome him up to the witness table.

Currently, "gift," as defined by case law or the Webster's Dictionary, is how the Commission looks at what a gift is. We talked about S.B. 49 (R1) earlier and I feel that there is substantial intertwining between these two bills and there is a definition of "gift" in S.B. 49 (R1). If that bill did pass into law and we have that statutory definition of "gift" would that be sufficient for the Commission?

Caren Cafferata-Jenkins:

The "gift" definition in S.B. 49 (R1) as I read it, was that exhaustive litany, but the first part of that definition said that no portion of this definition would interfere with any gift as defined in the Ethics in Government Law. Certainly, the Commission on Ethics has discussed and argued that gifts do not always have a financial dollar value. It is that qualitative effect of something that might tend to improperly influence someone that is not embodied in the definition proposed by the Secretary of State's bill that we wish to preserve.

Chair Ohrenschall:

Then there might be a separate definition of "gift" under the regulations promulgated under S.B. 228 (R1) by the Commission versus the NRS definition.

Caren Cafferata-Jenkins:

That is correct. Certain local governments have adopted ordinances and regulations saying that a gift of \$50 or less in value is allowed to be accepted. The Commission on Ethics does not have a dollar value and we might find that a gift that has no monetary value might still be the type of gift that might tend to improperly influence someone. So again, the Commission has a philosophical distinction to make between the definitions that have been offered and what the intention of NRS 281A.400 subsection 1 might be in use of the term "gift."

Chair Ohrenschall:

Are there any other questions?

Assemblyman Elliot Anderson:

This goes back to my other point about trying to comply with two similar sections of law. In practice, it is difficult for many people to understand that this is how they comply with this chapter of NRS and that is how they comply

with that chapter of NRS. From what you just said, a "gift" could be something that has no financial value. So, for example, someone helps me with a bill and testifies in support of it and I become nervous, realizing that it is not defined under the Ethics in Government Law. It can be very confusing and hard to comply with, especially if you are not legally trained.

Caren Cafferata-Jenkins:

I understand that to be the case. However, even without this change in section 37, subsection 2, the term "gift" is used in NRS Chapter 281A and there is not current reference to NRS Chapter 294, which is the Secretary of State's elections chapter. I am not certain that the elections gifts, and the existing public employees' and public officers' gifts are really the same kind of gifts. I am not certain that we can harmonize the two in all instances. But if there is a dollar value versus the type of influence value, I think that they both need to be part of the definition used in the ethics chapter.

Assemblyman Elliot Anderson:

I think that by defining through regulation the term "gift" for the purpose of this chapter is a very broad grant of power. I do not know that those who sit on the Commission can necessarily tell what an ordinary reasonable person would do inside every context a public officer might be in.

Caren Cafferata-Jenkins:

They all go through the Legislative Counsel Bureau and they are done by public hearing and they have a public vetting and so it is not just the Commission that would be doing that, but I understand your point.

Chair Ohrenschall:

I have a question, regarding the deletion of the word "procedural" in section 37, page 15, line 13. Right now, the Commission can promulgate procedural regulations. With this deletion the Commission will be able to promulgate substantive regulations. Could you explain to us what that difference is going to mean to the Commission and what that additional grant of regulatory power will allow you to do?

Caren Cafferata-Jenkins:

I believe that it simply enlarges the ability of the Commission to propose those regulations that it feels are necessary to do the work that it is statutorily required to do. I am not certain that the adjective "procedural" was inserted intentionally to limit, and yet it is limiting.

Chair Ohrenschall:

Pardon my ignorance, but do most other commissions and boards have the authority to promulgate substantive regulation?

Caren Cafferata-Jenkins:

I do not know.

Chair Ohrenschall:

Are there any other questions? [There were none.]

Senator David R. Parks, Clark County Senatorial District No. 7:

Thank you for hearing Senate Bill 228 (1st Reprint). I believe it is a very important bill that is needed for increased transparency in the State of Nevada.

Chair Ohrenschall:

We briefly touched on section 39 earlier and I hate to use hypotheticals, but what if you had someone who worked in the university system as a laboratory assistant and they are considered adjunct faculty and they run for Board of Regents, much as Professor Rosenberg did. Under section 39 precluding that person, if they were elected, would they have to stop work as an adjunct faculty member because of the "boss of your boss" provision?

Caren Cafferata-Jenkins:

My understanding is that the Board of Regents is a policy body that undertakes the system of higher education in broad brush strokes. They do not have controlling authority over the School of Medicine, the research department of that school, or the laboratory in that department. When we talk about controlling authority or controlling access, we are talking about determining where that person's office is going to be, or who their secretary might be, and whether they can take leave, and what their salary will be. That is the hands-on authority that we are trying to avoid is intended to do with section 39, not the policy makers in any way.

Chair Ohrenschall:

I have another hypothetical concerning section 40 and the cooling-off period. If a Mesquite City Council member has a consulting business and is involved in land development, would section 40, if passed into law, preclude him from appearing in front of say, the Laughlin Town Advisory Board on an issue that his private company is involved with?

Caren Cafferata-Jenkins:

I believe you are referring to subsection 1. Your scenario concerns a man who owns his own company, or worked for a company, in which he lobbies an agency of local government as part of his job?

Chair Ohrenschall:

Or makes a presentation regarding the development of a piece of land. You have the Mesquite city councilman who is a consultant and he has to appear before the Laughlin town board.

Caren Cafferata-Jenkins:

If he was to accept additional compensation from a private person, like being a lobbyist, if that was part of his regular course of employment, I am going to guess that section 40 relief from the strict application would be granted.

Chair Ohrenschall:

So in the example of the Mesquite city councilman, he could ask the Commission for relief so that he could continue his trade. How long do you think it would take to get that ruling? Is it something that he would need to do before he runs for office? Would the relief be something that is a blanket relief so he can appear before commissions or boards that are not the Mesquite City Council or would it be instance by instance?

Caren Cafferata-Jenkins:

I am just guessing because this is a hypothetical, however, I believe that relief from the strict application is handled as a first-party request for an opinion. The statute requires a response within 45 days from receiving the request. If they needed a faster response, we have turned it around in less than five days. I also know that if somebody is looking for the entire term of their office, if they work for a company and regularly appear before a body, they could seek relief for the narrow circumstances requested and the Commission would consider that for whatever time period would be relevant. There are no restrictions on what can be asked, and there are no restrictions on what can be granted, so long as it is not contrary to public policy or does not interfere with the continued integrity of the public process and the public trust.

Chair Ohrenschall:

Should S.B. 228 (R1) pass, do you feel that the Commission has the resources to handle these requests for relief?

Caren Cafferata-Jenkins:

Yes, pending the fact that our budget is going through as closed. We will have the resources.

Chair Ohrenschall:

Section 40, page 21, lines 11 to 40 state, "a member of a local legislative body shall not represent or counsel a private person for compensation before any local agency in the county in which he or she serves." In the same vein as my previous hypothetical, let us say you have somebody who is on the Alamo town board, or any board or commission in a rural county, and they are an attorney or engineer, that is their livelihood and they are potentially hired to make an appearance before a general improvement district (GID) in that county. Now they can do it but if this law passes, they would be prohibited, correct?

Caren Cafferata-Jenkins:

That particular modification came about after the Commission reviewed the case of a county commissioner who wished to be a lobbyist to the various cities within the county. It was determined that would not be a particularly comfortable public policy to adopt. That is why the expansion was not just before the agency on which he served, but agencies within the county. With regard to your hypothetical, if that is his job to be a lobbyist, the concept is those are the representations that would generally fall within the strict prohibition but relief from the prohibition is available should it meet the characteristics. I do not know if that helped you understand the intent of this section but with regard to your GID and Alamo City Council, there is a prohibition with this new language, yes. If they are in the same county it is prohibited conduct.

Chair Ohrenschall:

In section 42, the ability of the Commission to grant relief from the strict application of the contracting prohibitions, is that a new power, or is it power the Commission already has?

Caren Cafferata-Jenkins:

It is a power that is currently in statute. I am not certain whether subsection 6 was just moved over from another repealed section or not, but it is a power that the Commission currently has with regard to contracts.

Chair Ohrenschall:

In that same section, page 27, lines 1 through 10, there is a definition that "The contract is between an agency that has any connection, relation or affiliation with the agency in which the public officer or employee serves." Can you discuss that language and who the Commission is hoping to educate with that paragraph?

Caren Cafferata-Jenkins:

Let us say that I am the payroll officer for a fire department, and I am awarded a contract to develop software for that fire department. There is a relationship between me selling my software to the fire department and serving as the payroll officer. That is the kind of thing that is contemplated because the contract is between an agency that has a connection with my boss, my agency that I work with. Does that make sense?

Chair Ohrenschall:

It does. Thank you for explaining. On the same page, lines 35 through 37, "The contract, by its nature, is not adapted to be awarded by competitive selection and, at the time the contract is bid on, entered into, modified or renewed." There seems to be a definition for contracts in *Nevada Revised Statutes* (NRS) Chapter 332.115. Do you think there is going to be any conflict between the two definitions in NRS Chapter 332, or do you think that they harmonize?

Caren Cafferata-Jenkins:

Our request to the Legislative Counsel Bureau (LCB) when drafting this legislation was that the language harmonize the two because NRS Chapter 332, as I understand, is the local government purchasing provisions. And our hope is that the contract by its nature is not adapted to be awarded by competitor selection might be defined or articulated more precisely in the purchases made by local governments.

Chair Ohrenschall:

Are there any other questions?

Assemblyman Elliot Anderson:

I believe what you are talking about is the sole source contract, does that sound right? Is that your intent of what you are trying to get at?

Caren Cafferata-Jenkins:

There were two types of contracts that are contemplated and included in this section. *Nevada Revised Statutes* Chapter 332 talks about how government contract bidding is to take place and what kind of contracts need not be bid. *Nevada Revised Statutes* Chapter 332 provisions come into play in NRS Chapter 281A if it is not the kind of contract that needs to go through an open competitive bidding process. If a contract is sole source is a practicability question. If I am the only person who sells chain link fence in Tonopah and the only other provider that Tonopah can buy from is in Las Vegas, it makes no sense to require Tonopah to go to Las Vegas to buy chain link fence. If I am the only reasonable source to contract with, that is the sole source doctrine that

we hope is included in this bill. So there is an open competitive bidding exception and a sole source exception.

Assemblyman Elliot Anderson:

Just to be clear, a sole source contract would not be the only thing that would be included in that subparagraph.

Caren Cafferata-Jenkins:

Correct, because it would be the contracts that are not open competitive bidding and those that are not sole source.

Chair Ohrenschall:

I have a question on the deleted sentence in section 43, page 29, lines 36 through 38. Can you elaborate as to why that is being deleted?

Caren Cafferata-Jenkins:

Section 43 deletes the text regarding a public officer or employee who asks the Commission to provide advice and may request that the Commission do so in a public hearing. The Commission may not feel that it is necessary to hold a public hearing, and obviously, without it being in statutory language, they still can request that we do a public hearing. It is not only on the public officer's request that the Commission must respond.

Chair Ohrenschall:

Are many of these public hearings requested by public officers?

Caren Cafferata-Jenkins:

They are not.

Chair Ohrenschall:

Are there any other questions on section 43? [There were none.] I believe section 46 contemplates some new duties for the heads of the Budget Division and Human Resources Division. Have you received any feedback from them? Are these duties that they are willing to undertake?

Caren Cafferata-Jenkins:

Currently those are the individuals who are already tasked with reporting the list of public officers to the Secretary of State's Office for financial disclosure statements. So they are the individuals who are likely to hand somebody the oath of office to sign, the Ethics in Government Laws to review, to hand the acknowledgement of statutory ethical standards form, et cetera. They are the point person on behalf of their branch of government for new public officers and

public employees. I have not heard anything from any of them. They are used to dealing with us on a regular basis and they are already doing this.

Chair Ohrenschall:

Why bifurcate it? Why not have just one person who is in charge of that?

Caren Cafferata-Jenkins:

I could not answer that Mr. Chair.

Chair Ohrenschall:

Regarding the training provisions for state employees and public officers within six months of their employment, appointment or elections, do you think that the Commission has the staff and resources to be able to handle that additional training?

Caren Cafferata-Jenkins:

Again, with the approval of our budget as it was closed by the money committees, there are resources to provide that training.

Chair Ohrenschall:

Can you discuss the request for bill drafts as noted in section 48?

Caren Cafferata-Jenkins:

Certainly. Senator Parks, if you care to respond. Why is it that the Commission on Ethics requires access to the bill draft process directly?

Senator Parks:

For the Commission on Ethics to present a bill draft, they had to look for a legislator to submit their request on their behalf. I have done this for two sessions and I would be happy to continue doing so, but I believe this is an important issue and the ability for the Commission to be able to request its own changes is appropriate.

Chair Ohrenschall:

Section 27, page 10, lines 14 through 17 state, "The Commission may apply for and accept grants, contributions, services or money for the purposes of carrying out the provisions of this chapter only if the action is approved by a majority vote in an open public meeting of the Commission." Senator Parks, you are on the Interim Finance Committee (IFC), will this be a different procedure then what other commissions have to do in terms of getting approval from the IFC?

Senator Parks:

Basically, before a grant can be requested it must first be approved by a majority vote of the Commission in a public hearing. This is part of the normal process for a request to be submitted whether for the IFC or as part of a budget.

Chair Ohrenschall:

So then it would still require IFC approval?

Senator Parks:

That depends. This process covers both instances as far as a request. Agencies within the state can submit requests for grants and if they are above a certain threshold, then the grant must be approved by IFC or be a part of the budget submission for that agency. This just simply includes the Commission under the same procedures.

Chair Ohrenschall:

Then you do not see this section obviating any need for approval from the IFC for the Commission to accept grants?

Senator Parks:

No. If it is beyond a certain threshold it would require the approval of the IFC.

Chair Ohrenschall:

In section 30, page 10, there is a new definition of household in NRS 281A.100. I am wondering why the deletion and could there be an unintended consequence? For instance, if Bob, who is a city councilman, decides to rent out an empty room in his home, that renter is now considered part of his household. If that renter is a very private person and does not want to disclose to Bob what he does for a living, will that cause problems for Bob?

Caren Cafferata-Jenkins:

The definition of household should be the definition of a household. How that household is treated in other regulatory provisions of the statute is another story. A household has no business being defined as relations of people by blood or marriage.

Chair Ohrenschall:

Do you know if the two definitions in S.B. 228 (R1) and S.B. 49 (R1) will match? I would like to know if we have two different definitions of household in the two bills or if they are harmonious.

Assemblyman Elliot Anderson:

Senate Bill 49 (1st Reprint) only talks about family and consanguinity, it does not speak to household.

Caren Cafferata-Jenkins:

Mr. Anderson, is there a definition of household in S.B. 49 (R1) or in NRS Chapter 294A?

Assemblyman Elliot Anderson:

My recollection is that the definition centers around family or consanguinity, so Senate Bill 49 (1st Reprint) would trigger with your family and consanguinity but it would not trigger to a household so if you had someone that was in the household that you were renting a room to, that would not be roped in under S.B. 49 (R1).

Caren Cafferata-Jenkins:

If one is defining family, then that is a definition of a term different than a definition of household.

Chair Ohrenschall:

I spent a lot of time on both of these bills these last few days and maybe I am getting confused between S.B. 228 (R1) and S.B. 49 (R1). I thought there was a definition of household in S.B. 49 (R1) but I am not finding it right now.

Kevin Powers, Committee Counsel:

At the beginning of S.B. 228 (R1) the definition of household is being added to the financial disclosure provisions. The reason for that is that the financial disclosure provisions in NRS Chapter 281 used to be in NRS Chapter 281A. When they were moved, the definitions did not go with them. This would bring the definitions into NRS Chapter 281 so the household definition in both NRS Chapter 281 and NRS Chapter 281A would be the same. That household definition would also apply to the financial disclosure statement provisions in S.B. 49 (R1). That is how S.B. 49 (R1) gets implicated by S.B. 228 (R1), because these financial disclosure provisions are in both.

Chair Ohrenschall:

Thank you for the clarification. Are there any other questions?

Assemblyman Thompson:

I want to talk about the fundamentals of this. If this were to pass, is there a way that information impacting legislators could be extracted?

Caren Cafferata-Jenkins:

Thank you so much for asking that question because it is critical that the information not only be available but communicated to those that are regulated by these provisions. The Commission is required by statute to issue a manual for public officers and public employees in the State of Nevada. My goal is to have the manual structured by chapters for state, local, legislative, and executive officers and employees as well as indexed, so that people can quickly find the information they need.

Chair Ohrenschall:

Are there any other questions?

Assemblyman Elliot Anderson:

When you are compiling that manual, add fact patterns to it. They are very helpful in understanding the provisions and complying with the law.

Chair Ohrenschall:

Thank you, Ms. Cafferata-Jenkins, and Senator Parks, for taking the time to explain all of this and I appreciate your indulgence with all the hypotheticals. Is there anyone else in support of S.B. 228 (R1)? [There was no response.] Is there anyone in opposition to the measure who would like to speak? [There was no response.] Is there anyone in neutral who would like to be heard? [There was no response.] Senator Parks, Ms. Cafferata-Jenkins, do you have any closing remarks? [There was no response.] I will close the hearing on S.B. 228 (R1) and open the hearing on Senate Joint Resolution 8 (1st Reprint).

Senate Joint Resolution 8 (1st Reprint): Proposes to amend the Nevada Constitution to revise provisions relating to the State Legislature. (BDR C-626)

Senator Tick Segerblom, Clark County Senatorial District No. 3:

I am joined by Assemblywoman Lucy Flores in presenting this measure, which is a proposed constitutional measure that would allow the Legislature to have annual sessions. Right now, as you know, we meet for 120 days in the odd years. This legislation would change that to 90 legislative days in the odd year and a 30-day session in an even year. That is 30 legislative days out of 45 calendar days. Legislative days are days that we are actually here in the building, working on state business. This would allow us to take a week break at one point, perhaps after the first house passage deadline and another week break after the second house passage deadline, so that people could catch their breath. It would make us more efficient.

I think it is high time that this is approved and brought before the voters which means that this would not be voted on until 2016 and the first session it would impact is 2018.

[Senator Segerblom submitted a copy of his PowerPoint presentation on Senate Joint Resolution No. 8 (1st Reprint) ([Exhibit D](#)).]

Assemblywoman Lucy Flores, Clark County Assembly District No. 28:

You should have in front of you a handout to see how Nevada compares to states that recently changed to annual sessions and states that have biennial sessions ([Exhibit E](#)).

Chair Ohrenschall:

Those documents have been uploaded to the Nevada Electronic Legislative Information System (NELIS).

Assemblywoman Flores:

You may have received some email communication that we were going to double our salary. I wanted to address that specifically because it is not true. What this legislation does, however, is pay us for each day that we work. I really do not know anyone in Nevada, or anywhere else, who would say that working for free is fair and/or reasonable, but that is what we currently do. I believe that all of us serve the public not for compensation but because we really care about our communities and want to make a difference. However, under the current environment, it makes it incredibly difficult for people to serve their state and community without receiving fair compensation. This measure would require that a legislator be paid for each day they serve. Our legislative salary is tied to statute. We could not raise the daily rate or the amount that we are paid unless we actually submitted a bill to change that statute. This resolution does not provide for any type of raise in salary.

Senator Segerblom:

How many of the 120 days are we currently paid?

Assemblywoman Flores:

Right now we are limited to 60 paid days. Our proposal removes the 60-day limitation.

If you look at the spreadsheet that compares Nevada to other states, you will see we are one of only four states in the country that still serve on a biennial basis. The other states are Montana, North Dakota, and Texas.

Texas is the largest state with 26 million people and a large budget. Even though they are biennial, Texas functions as a full-time legislature with a 140-day schedule, and a salary for those in the house of \$13,000 per month during the session, and \$11,000 per month in the interim. This allows them to keep a full-time district staff and full-time legislative staff. Texas senators receive \$38,000 per month, whether during session or in the interim. Again, this allows them to maintain full-time staff in district and legislative offices throughout the year.

Looking at the next chart ([Exhibit E](#)) you will see states with similar populations and budget resources as Nevada. Each of these are on annual sessions. You can see their salaries are larger, and they also have additional resources in order to be able to do their jobs while they are not in session. And when I say do their job, I mean being able to be responsive to their constituents and have the staff available to continue working on issues that do not go away just because we are not in session.

Nevada has followed a biennial schedule for a long time, but we have significantly grown in population, with a corresponding growth in our gross domestic product and the tourism that comes to this state. So many things have changed in the last five to ten years that we simply are not the state that we were 10 years ago, much less in 1887. As all of you know, it is difficult to finish a legislative session believing you have instituted good policy for the state, and then something happens and an unintended consequence occurs and we cannot fix it for almost two years. That is just not the way to effectively govern a state. You do not manage your household once every two years, why would you manage an entire state every two years?

Senator Segerblom:

I sat on the Assembly Health and Human Services Committee and we had a bill to address an issue with Medicaid which called for us to submit data to the feds and they would send it back, and we would achieve a significant dollar savings. We made the wrong tweak and in that interim we lost \$20 million dollars as a state because we had to wait two years to come back and fix the mistake that we made.

Secondly, we are the smallest legislature in the country with 21 Senators and 42 Assemblymen. New Hampshire has 450 assemblymen. Per capita, Assembly members represent 65,000 people while Senators represent 130,000 people. That is a huge number of people that deserve representation and I do not think they receive a full representation meeting the way we do.

Assemblywoman Flores:

If you look at the states that still have biennial sessions, Montana has a population of 1 million, and North Dakota's population is under 1 million. Nevada has almost 3 million people, which means that the only other states that function on a biennial system—excluding Texas—have less than half the population that Nevada does. This is simply not a good comparison. Every single state in the country is moving toward annual sessions and we are just one of the few holdouts. Arkansas switched to annual sessions in 2009. Oregon was the last state to switch to annual sessions in 2011. Nevada should get with the times and become responsive to our state's needs.

Chair Ohrenschall:

This is something that I have supported in the past. I find that state legislators are the elected officials who are closest to our constituents, because we are out there, we are out knocking on the doors, pounding the pavement and people know us. Many times we are the one they will call when they have a problem with a pothole or a traffic light or even with social security benefits. We do not directly affect those areas, but we try to be their bully pulpit to get them the help to get that problem addressed. Limiting the Legislature to meeting 120 days every odd year creates an inequality between the branches of the state government. Here we are, the closest group of elected officials to our constituents, and our ability to do anything is limited. A good example was during the height of the foreclosure crisis when I had hoped that our former Governor would call a special session. He did not and we had to wait until the next regular session to do anything to try and stop the hemorrhaging. Would you care to address the coequality of this branch of government?

Senator Segerblom:

We could stay here all night talking about that. The Legislature is the first political body in the *Nevada Constitution*, followed by the Governor and then the Supreme Court. There are two things that have happened in the last 20 years that have dramatically decreased our role in government. The first is having term limits, which changed the face of the Legislature and, I believe, weakened it considerably as we lost all the talent we had. Second, requiring a two-thirds vote on taxes has crippled us.

Chair Ohrenschall:

Are there any questions for Senator Segerblom or Assemblywoman Flores?

Assemblyman Hickey:

Ms. Flores, you mentioned that Texas effectively operates like a full-time legislature even though they are not. I think that raises the question of identity. If you asked the public what we say about ourselves, they would respond that

we say we are citizen legislators. That, in essence, defines us as part-time legislators, and we are certainly paid part-time. Some would say that you get what you pay for.

Senator Segerblom:

That is true. If we do not consider ourselves important enough to go out to the public and say we deserve to be paid per day, then that is our own problem.

Assemblyman Hickey:

If we meet every year as noted in this bill, would that not present a problem? I think it does. I would like to hear your reaction to business people, the citizen legislators that we have right now, who find it a challenge to take time away from their businesses. Are we going to restrict those types of people from participating in government if we go to annual sessions?

Senator Segerblom:

In my opinion, you will not. One of the handouts uploaded to NELIS is a poll we conducted of legislators ([Exhibit F](#)) to see what percentage of their time they feel they spend on legislative matters. We received responses from 46 percent of the 61 legislators and 14 percent said they spend 90 percent of their time in a given year—including session time, interim work, and constituent services—on legislative business. We spend an incredible amount of time on this process whether it is running for election, serving here in Carson City, or in our districts representing the people, attending meetings, et cetera. I do not think another month will have an adverse effect.

Assemblywoman Flores:

What we are trying to become is an effective and efficient legislature. I, and I believe most of the legislators here, know that it is incredibly difficult to address any issues that arise in the interim and frustrating to have to wait almost two years to be able to come back and officially address those issues. The frustration is shared by our constituents who have to wait that amount of time for a solution to their problem.

Additionally, our ability to interact with administration and various representatives of the state agencies is seriously handicapped. They know that we will not be able to do anything and that there will be no accountability, no hearing, for almost two years.

Assemblyman Elliot Anderson:

I wanted to make a comment in response to Mr. Hickey's statement about public employees. If you provide a salary, by law you can prohibit any sort of outside employment. I believe that ethically it is better to say that we, as

legislators, are exercising powers of the State of Nevada, and therefore the state is going to pay us and not allow us to be on anyone else's payroll. I think half of the ethics discussion we had for the last bill would not be necessary if you just said you are a public officer and we are going to pay you as a public officer and you are not going to work for any other public agency or private employer. I do not believe this resolution would take us to full-time legislature status because we would keep the same 120 days just split into two sessions of 90 and 30 legislative days. That extra time would go a long way to ensure that we end up with good policy for the people of this state.

One of the things that I worry about is putting some policy through that I cannot fix. We are talking about writing laws that people will be required to adhere to. If you actually had a job that met only four months every two years, you just would not be any good at it.

Assemblyman Martin:

Senator Segerblom, you have a proposal that the Legislature meet three days once every three months during the interim. I assume that the problem with that approach is that we could not have the authority that a legislative session would avail itself to. If this moves forward, let us say we are at 2018, what is your vision of the future should this pass? Would we still have quarterly interim meeting periods on top of the 45 days?

Senator Segerblom:

After the last session, I was appointed to chair an interim study committee where we actually studied the Legislature and annual sessions. As part of that study we went to Oregon, which had just implemented the annual sessions and studied how they did it. Oregon did two things in order to bring about annual sessions. First, they met every quarter for three days; they would all go to Salem and met so they kept their committee structure the same during the interim as they had during the session. Then, after the end of the first year, they met for a month so the committees were able to get everything lined up and were ready to rock. Of course then the next year you hit the ground running after the election for the full 120 days.

In Oregon, their experience was very positive. They did not waste a lot of time because they were able to stay focused and when they came out of their regular session, anything they were not able to accomplish, they used those three-day meetings to keep things going and that is really the plan here.

If the voters approve this in 2018, that three-day committee structure would fit right in with this one month, so it actually makes the month much more effective.

Chair Ohrenschall:

Are there any other questions?

Assemblywoman Kirkpatrick:

For years I have been the biggest opponent to having annual sessions because I was not sure how that would work for me. However, as our state has grown, I have seen that it is getting harder to do the job of the people on a part-time basis. I am not a public employee, I work in the private sector, and it is very hard for my boss to allow me to have five months off. I am not one of the fortunate ones. I go back to work the day after we sine die with no break. Part of me is ready to go back to work, but the other part of me is exhausted and needs a few days of rest.

The one thing I want to definitely make sure of is that we do not lose touch with our constituents by becoming a full-time legislature in the same manner as other states. I think that you forget what you are about and who you represent. I have been trying to work with the California legislature on a piece of legislation that affects our body today and had to go through 20 different people to get to the one person who is able to do anything. I do not think that is the kind of legislature we want to be. Nevada is unique; we have small town syndrome in a lot of ways.

I always look forward to coming to the Legislature because then I have one job: I am a legislator. When I am at home, I work full time, I am a mom, a grandmother, a wife, and I am a legislator. Trying to fit all those things in is difficult at best. I still want to be able to pump my gas, go to the grocery store and know how much a gallon of milk is, and work in the private sector so that I know what challenges businesses are facing. That is what makes us unique.

I am sure my employer would say that if he could have me for a little bit each year rather than closing down for five months every other year, it would be easier for him. And we might even get more private sector people that can walk away from their businesses for a few weeks each year. We have several people here now that have to walk away from their own personal business to come, but that is what makes us a unique and diverse group, unlike other states with full-time legislators who are career politicians. If there is a way to have balance, I am in support of this.

There is one part of the legislation that I do not agree with and that is the piece that says we can meet in Las Vegas. We have a capital which is the seat of our government for a reason.

Assemblywoman Flores:

It does not seek to change the capital. What it does do is it give the option, with a majority vote of both houses, to meet somewhere other than Carson City. The idea behind that was that 76 percent of the population lives in southern Nevada. Certainly no one foresaw that back in the 1800s.

Allowing ourselves the option to conduct official business elsewhere, presumably Las Vegas because that is where the resources exist, extends the opportunity to participate to a large percentage of the population that is currently shut out.

Assemblywoman Kirkpatrick:

I appreciate that, but I want to be clear that some people would not be in Las Vegas while others are here in Carson City. It will be all or nothing. We all go to Las Vegas or we all stay in Carson City. Also, our staff primarily lives in northern Nevada, and they would need to travel with us as well.

I always say an effective legislator is one that is close to the ground. As far as the additional days, I think that we have grown so much and our issues are constantly changing now when they were not years ago. But I do not want to lose sight of the whole state, is my only concern.

Senator Segerblom:

It is not my intent that we move to Las Vegas, but over the next 100 years, at some point it may be appropriate that we would meet in Las Vegas so people could actually see us in action and vote. Right now we cannot take a vote outside of Carson City. Given the resources that we have here in this building, we could not afford to duplicate this. We have talked to staff and there is a way for everyone to travel to Las Vegas for a week and function under the bare minimum so at least people could see what is going on. The small session would be minimally staffed with just the people who are already here, so we would not have to hire attachés.

Assemblywoman Flores:

I do have some information that makes more apple to apple comparisons in terms of population. If you look at the states with similar populations to ours, you will see some drastic differences. Arkansas only meets for 60 days; 30 days in the odd year and 30 days in the even year ([Exhibit E](#)). They have close to 3 million people, the same as we do, but they have an annual salary of \$16,000, which is four times more than we make. Their members also receive a \$14,000 stipend for staff and additional resources to help them meet their constituents' needs. The annual salary for committee chairs and vice chairs is \$18,000 a year. Mississippi has a 90-day yearly legislative session, except for

years in which a gubernatorial election is held, in which case they meet for 125 days. Mississippi's population is 2.9 million, and legislators receive a \$10,000 annual salary plus an additional \$1,500 monthly stipend for office resources. Utah, has almost the same population as we do and meets 45 days per year, with no additional stipend for office resources.

I believe that we can specifically tailor our sessions to fit what works for our communities and develop a legislature that is appropriate for our needs. No one is trying to be California or New York, but I think that we agree that we need to do something more than we currently are.

Chair Ohrenschall:

Are there any more questions from the Committee?

Assemblyman Thompson:

I am sure we all have received numerous emails about this bill and the resounding theme that I see is the constituents feel like this is a ploy for legislators to raise their salaries. Because of that, if this bill is successful, it is going to be important that we have a very comprehensive public education campaign so that when the voters go to the polls to vote on this they are well informed and prepared to make their decision, whether in opposition or support.

Senator Segerblom:

There is a bill currently in the Senate that provides for a commission, composed of nonlegislators, members of the business community, and labor, to study the legislature over the interim to evaluate these issues and come back with a report that would of what we need to do. We can then use that committee as Oregon did, to go out and educate the public as to why this is necessary.

Assemblywoman Flores:

Assemblyman Thompson, a key issue in those emails is the idea that we could vote this into law, which is not true. We are simply giving the voters of Nevada an opportunity to voice their opinion. I think it is very important to highlight that not only does this have to pass this session, but next session as well, and then go to a vote of the people. It will be the people of this state who will either accept or reject this proposal.

Chair Ohrenschall:

Some of the other states that have gone from biennial sessions to annual sessions mentioned that the legislators felt that it was very positive and they were able to get more work done. Is there any data or polling about how the constituents felt? Did they feel that the legislators were more responsive or

closer to the districts? Is there anything from Oregon or the other states that you mentioned in your presentation?

Senator Segerblom:

I am not aware of anything.

Assemblywoman Flores:

It is important to note that Oregon had to amend their constitution as well so the people accepted the idea that they needed an annual legislature.

Chair Ohrenschall:

Some of the emails that I have received have made the argument that because of the recent change in the *Nevada Constitution* allowing us to call ourselves into special session that this is not needed. I wondered if you would address that.

Senator Segerblom:

I disagree. That can only occur by a two-thirds vote and that is a specific issue. In Oregon, what they actually did was to call themselves into special session for two terms before the measure went to the voters so they had experience in the interim.

Chair Ohrenschall:

Are there any other questions for the presenters? [There were none.] Is there anyone else in support of S.J.R. 8 (R1)? [There was no response.] I will turn to the opposition. Is there anyone who is opposed to the measure who would like to speak?

Janine Hansen, representing Nevada Eagle Forum:

We do oppose this bill. One of the things that I am concerned with is the simple logistics, and we have heard some discussion about that. You need to consider that if you go into session in February during the odd-numbered years and then in the even-numbered years in March, you will be going into session during the period candidates file for office with the primary in June. Of course, you cannot raise any money during that time.

Also, I think that one of the things that we would always ask for is that we would request that there be a greater limitation on the number of bills so that there would not be as much pressure on all of you and us. We have long supported that.

One of the overall concerns we have is that this does jeopardize the citizen legislature. We know that people who are in business or not working for the

government have a significant problem in trying to come here and participate as legislators.

I would like to also address the issue of meeting in any other place. I think there are some issues that have not been discussed. The video conferencing has been a wonderful addition to the sessions. However, if you plan to meet in Las Vegas or anywhere else, you will face additional costs for housing.

We do oppose this bill. We do not want to add to the size and scope of government, and we feel certainly that this bill would do that.

Chair Ohrenschall:

Are there any questions for Ms. Hansen? [There were none.]

Lynn Chapman, representing Nevada Families for Freedom:

It is hard to come down here for four months, as I have my own business and have much to do with it too. It is difficult for people to try to be here all the time and watch what you are doing. I have been speaking with people as I wait in line at the grocery store, or pumping my gas. I ask them what they thought about annual sessions and of course, they did not know what I was talking about. I had to explain about the legislature and that they are thinking about having annual sessions. I have not met anyone who is in favor of it. You are writing a lot of bills and passing laws that we have to live under and they are worried about that power expanding.

In a January 5, 2013 article in *The New York Times*, Lucy Nashed, a spokeswoman for Texas Governor Rick Perry, said "A part-time Legislature allows lawmakers to come in and complete the business of Texans and then go out and live under the laws that they've passed." I think that is very important and we should remember that is what a legislature has to do. If we meet every other year it prevents the legislature from passing frivolous bills, forces lawmakers to focus under considerable deadline pressure and keeps part-time legislators from becoming full-time politicians. In the same article, Michael Quinn Sullivan, the president of Texans for Fiscal Responsibility, said "The California Legislature meets, I think, 30 hours a day, 9 days a week, 412 days a year and they seem to invent new ways to cause problems for their citizens. The last thing Texas needs is a Legislature that meets more often." I think a lot of people think that as well. We are opposed to the bill.

Chair Ohrenschall:

Are there any questions for Ms. Chapman?

Assemblyman Thompson:

Actually, I would like to provide a clarification. I know you mentioned that if we were to go to annual sessions, there would be more bills. I do not see it as being so. There are hundreds of bills, even a bill to reduce bills. But I think we want to look at having the time to draft high-quality bills, to be able to have the time to talk to those holding different points of view, instead of it being a rush. I think we are looking at quality for our constituency versus just quantity and doing a rush job.

Chair Ohrenschall:

Are there any other questions for Ms. Chapman? [There were none.]

John Wagner, representing Independent American Party:

I do not want to repeat what has been said. I do believe that Carson City is the state capital and all business should be conducted here. There are interim committees that meet during the off year so they can do some work. As far as the comments made about including the people who live in Las Vegas in the process of government, take a look at the monitor. I see one person back there, and I believe he is a staff member.

Chair Ohrenschall:

Are there any questions for Mr. Wagner? [There were none.] Is there anyone else in opposition who would like to speak? [There was no response.] Is there anyone who is neutral who would like to be heard? [There was no response.] Assemblywoman Flores, do you have any closing remarks?

Assemblywoman Flores:

I would just like to point out to Ms. Chapman that we, too, have been working for free these last 45 days. I would also like to thank Mr. Thompson for reminding everyone that we do have Assembly Bill 446, which is aimed at reducing the number of bills as we worked toward being a more efficient and effective legislature.

Chair Ohrenschall:

I will now close the hearing on S.J.R. 8 (R1) and open the hearing on Senate Bill 283 (1st Reprint).

Senate Bill 283 (1st Reprint): Revises provisions relating to the Commission on Ethics. (BDR 23-103)

Senator Joseph (Joe) P. Hardy, Clark County Senatorial District No. 12:

I had Mayor Roger Tobler of Boulder City waiting in Las Vegas to testify, and before he left he said, "Would it help if you could speak for me?" Oh that

I could. But at any rate I was only going to talk about the current exposure we, the elected, have and how that influences some to not run for office. That is basically one of the issues that we have with the ethics statute as it exists now. For the record, I worked with Ms. Cafferata-Jenkins, the executive director for the Commission on Ethics, and you will see some language in the bill that was deleted and that was so she would, in her words, be neutral. I appreciated working with Ms. Cafferata-Jenkins so that she could obtain neutral status to the bill.

Before I go further, I want to note that there is a letter on the Nevada Electronic Legislative Information System (NELIS) from George Keele ([Exhibit G](#)) who is a past member of the Commission on Ethics. The letter elucidates his opinions about the bill and why he supports it.

Elected officials seem to be held to a higher standard, and yet they are suspected of living at a lower standard. One of the challenges that we have with doing what we do is the Commission on Ethics. I went before them some time ago and posed the question that if they work on a reasonable person standard, or a prudent person standard, and it is a split decision, then which member of the Commission is the not a reasonable person? They did not have an answer for that.

Automatic decisions are made on willful violations of the ethics laws. This bill will provide some leeway and flexibility, not only on the decision, but the imposition of a penalty. It will not solve all the problems, but it has reached accord with Ms. Cafferata-Jenkins and hopefully some of the appointed and elected officials may have some comfort that the shield of good faith does count for something. Even today I had somebody say to me that the Commission on Ethics is the only place that you can be ruled guilty until proven innocent. That came from an elected official. If you would indulge me I will go through the gist of the bill.

Chair Ohrenschall:

Please go ahead, Senator Hardy. Our apologies to the Mayor of Boulder City.

Senator Hardy:

Section 3 takes comparable situations and has them treated in a comparable manner. It takes a reasonable relationship to the severity of the alleged violation. Section 4 notes that if there is a civil penalty then they shall consider the seriousness of the penalty; the number and history of warnings or violations; the cost of the investigation; the mitigating factors such as self-reporting, prompt correction, rectification, or cooperation; restitution or

reimbursement; the extent of financial gain that was involved; and, any other matter that justice may require.

Section 5 notes that proving "intentionally" requires proof, while section 6 that "knowingly" requires knowledge of an act or omission of an act. Section 8 talks about the penalties that the Commission on Ethics can impose and if there is a penalty or a willful violation, then a two-thirds vote of the Commission is required. Also in section 8, good faith is relied upon if the elected official consults the legal counsel of the entity to which they have been elected or served and the legal counsel says this is what you should do and the person follows that and they then are considered working in good faith and not a willful violation.

Chair Ohrenschall:

In sections 5 and 6, on page 3 toward the top of the page, the new language now seems to go 180 degrees from where the law was before regarding "intentionally" as noted in lines 3 through 5. The term did not require proof of bad faith, ill will, evil intent, or malice. Now it does require those things. Similarly, with "knowingly", on lines 7 through 9, on the same page, the statute did not require knowledge of the prohibition against the act or omission, now it does require it. Can you explain the rationale for that and what kind of difference it will make for those who seek to serve the public?

Senator Hardy:

Your impression is exactly right. We took the tuna in the nets, I guess you would say. Let me use an example of some of the documents we sign when we assume public office. There is a plethora of things we sign and then do not read for two or three years and then we find out that we did not do something we were supposed to. Either not filling out a form or not turning it in on time and now we have a willful violation when we did not mean to. This was not a nefarious act, we just did not think and did not do it. So what this allows is for the Commission to be able to have the flexibility where they can determine if somebody acted in bad faith, ill will, evil intent, but they do not have to out of the chute be able to say you did this in an evil way.

If you look at the letter from George Keele ([Exhibit G](#)), you will see that he details a situation he was in while a member of the Commission. He states that he was in a hearing and realized that one of the statutes being discussed applied to him. He had not realized it so he actually turned himself in to the Commission and went through that whole process. So there are good people trying to do good things in the public arena and this will allow them to be tried, if you will, by the Commission on Ethics without being told they are guilty before they are given the chance to say "I am innocent."

Chair Ohrenschall:

Page 4, subsection 5, the new language in lines 39 through 45, calls for a two-thirds vote of the Commission for a willful violation. As I understand it, the Commission has eight members; two of the members are investigatory. They do not vote. Knowing that, if one or two of the six remaining members had a conflict of interest, you could have a scenario where three members might constitute the two-thirds.

Senator Hardy:

Yes, that could be the condition. During an investigation, two members are involved in the initial decision on whether or not to send a case to a full hearing of the Commission. That would leave six members who would have the opportunity to vote.

Chair Ohrenschall:

Currently, it is a simple majority?

Senator Hardy:

That is correct.

Chair Ohrenschall:

Are there any questions for Senator Hardy on Senate Bill 283 (1st Reprint)? [There were none.] Is there anyone else in support of the measure who would like to be heard?

Janine Hansen, representing Nevada Families for Freedom:

We fully support this bill. We have had significant concerns about the Commission on Ethics since its inception, and we feel that this issue of guilty until proven innocent is the bottom line of our concerns. Essentially, people that are brought up in front of the Commission have no constitutional rights. They have little due process and there is no trial by jury. I think it is very important not to allow the Commission on Ethics to be used as a hammer over people's heads. This whole process reduces the number of people that are willing to subject themselves to this kind of guilty until proven innocent concept and will not run for office because of it. I approve of the language that puts greater protections on the individual public officers that have to come under this Commission. I still have concerns with the Commission from A to Z but this goes a long way to respond to some of those significant concerns that we have so we fully support this bill.

Chair Ohrenschall:

Are there any questions?

Assemblyman Elliot Anderson:

Senator Hardy, I have a bit of an issue with sections 5 and 6 and their changes to those definitions. "Knowingly" does not require knowledge of the prohibition against the act or omission. That to me is basically saying that ignorance of the law is an excuse. I certainly am the first person to say that the ethics laws are confusing, but I am personally not comfortable with saying it is okay for us to not have knowledge of the law. We cannot make that standard if we start saying ignorance of the law is an excuse. We would then be going down a precipitous slope in terms of all law.

Senator Hardy:

We have been down that slope. The Commission on Ethics currently has their hands tied; they have to say that you had a willful violation any time there has been a violation. That is what they have to do now. So yes, your observation is correct, and yes, we have been down that slope, and yes, we have people who are not anxious to serve in positions because of the egregious way that the Commission on Ethics has to do what they do to people.

Chair Ohrenschall:

Ms. Cafferata-Jenkins is not here. Was she supportive of this in the Senate?

Senator Hardy:

Yes, she was.

Chair Ohrenschall:

Are there any other questions for Mr. Hardy or Ms. Hansen? [There were none.] Is there anyone else in support of the measure who would like to speak? [There was no response.] I will move to opposition. Is there anyone opposed to the measure who would like to speak? [There was no response.] Is there anyone in the neutral position who wants to be heard? [There was no response.] Senator Hardy, would you like to make any closing remarks?

Senator Hardy:

To clarify the position, and I realize I am talking for Caren Cafferata-Jenkins, everything that she had an objection to, I took out. She did not appreciate the two-thirds vote, but understood it and today she came to me and said that she was not going to oppose it.

Chair Ohrenschall:

I will close the hearing on S.B. 283 (R1) and will open the hearing on Assembly Bill 361.

Assembly Bill 361: Directs the Legislative Committee on Health Care to conduct an interim study to determine the benefits and feasibility of providing for the establishment of community paramedicine programs in this State. (BDR S-1040)

Assemblyman James Oscarson, Assembly District No. 36:

I need to fully disclose that I am sitting next to my son, who is a captain in the emergency medical services at Humboldt General Hospital. His organization and several others approached me about community paramedicine. I will make some brief comments and then will turn it over to Captain Jared Oscarson and Louis Mendiola, Community Wellness Coordinator, both from the Humboldt General Hospital in Winnemucca, Nevada. We have several other health care professionals and fire department individuals who are here from all over this area. I want to say how much I appreciate all of these people staying late this evening to be here to testify.

Chair Ohrenschall:

The whole Committee and I sincerely appreciate that as well. We had a long agenda this evening.

Assemblyman Oscarson:

This bill addresses an issue that affects the rural parts of our state and my constituents more than you city dwellers. This issue is addressing the gap between patient needs and primary care. It may not seem important when you live in an urban area and a primary care doctor or clinic is only a short drive away. However, in rural parts of the state, there are far fewer doctors or clinics and too many patients are miles away from a primary care physician or clinic, and there are no cabs or buses to get them there.

The idea of using paramedics and emergency medicine technicians (EMTs) to help fill this gap is not a new one; other states, such as Colorado and Pennsylvania, have started programs that use paramedics and EMTs to fill the gaps in health care. Programs that integrate paramedics and EMTs into nonemergency health care are referred to as community paramedicine programs. Community paramedicine can operate on many levels, providing information, preventing disease and injury, and reducing hospital readmissions. This is a key factor that will impact us once the Patient Protection and Affordable Care Act of 2010 (PPACA) takes effect. But deciding if and when such a program makes sense depends very much on the stakeholders getting together to decide a program that fits the particular community at issue.

Because this type of program would be new to Nevada and affects so many stakeholders, hospitals, doctors, patients, and insurance companies to name

a few, having the interim Health Care Committee study the potential for creating community paramedicine programs seems like a great place to start.

Louis Mendiola, EMT-II, Community Wellness Coordinator, Humboldt General Hospital, Winnemucca, Nevada:

I represent Humboldt General Hospital and our ambulance division, Humboldt General Hospital EMS Rescue. We have ambulance stations in McDermitt and a partnership with the EMS providers in Lander County, including Battle Mountain.

Chair Ohrenschall:

About how large of a population does Humboldt General serve?

Louis Mendiola:

Approximately 18,000. Just to clarify, community paramedicine is not a replacement of nurses or any other existing health care workers. It is not a new program or project to divert monies from other existing clinics, services, or health care agencies. Nor is it a change in scope of practice for any provider. Rather what we are trying to do is fill gaps with preexisting agencies and departments now functioning as emergency medical technicians and paramedics. What community paramedicine is, is using paramedics that are properly trained in nontraditional manners within their community in an effort to connect underutilized resources with underserved populations. In the rural areas, we do have a few paramedic full-time agencies and their call volume is somewhat lower than those in the urban areas. What we can do with community paramedics is to use those to meet the needs of the health care and health conditions of our rural citizens.

Community paramedics have an expanded role, not an expanded scope. We are not talking about having paramedics do surgery. We are simply saying they already have these skills and this knowledge, so let us use it in a more proactive approach.

We have a short video for you that highlights what our EMS colleagues in Boise, Idaho, have started ([Exhibit H](#)).

What community paramedicine can offer our rural residents is a plethora of low acuity services that take up much of the time of a primary care physician. Everything from health and wellness programs, to access to other types of health care options, including the ability to navigate through health care services that they may need in a more cost-effective manner. We can look at prevention from a risk assessment perspective, especially when we talk about falls in the home, which cost our citizens quite a bit of money annually.

Why have we chosen community paramedics? Paramedics are well established in our community. They have the skills and knowledge to deliver quality care in a dynamic and unusual setting. [Read from prepared text ([Exhibit H](#)).]

Obviously, our rural areas in Nevada are the most underserved areas. Assemblyman Oscarson has talked about the distance and remote nature of these rural areas making it hard for our citizens to travel a long distance for the simple follow-up after a surgery or to have stitches removed.

Jared Oscarson, NREMT-P, Captain EMC Clinical Services, Humboldt General Hospital, Winnemucca, Nevada:

This allows us to provide care moving away from the emergency only mentality to a nonemergency, in-home, anywhere, use of a paramedic. It allows us to assess vital signs in home such as blood sugar levels, medication reconciliation, slip and fall risk assessment and mitigation of that assessment in home for these patients. [Read from prepared text ([Exhibit H](#)).]

Chair Ohrenschall:

Do you find that many of the patients you treat are homebound and would not get to see a doctor or health care provider unless the community paramedicine came to them?

Louis Mendiola:

Just a quick clarification on the term homebound. There are many resources for our homebound patients as defined by the Centers for Medicare and Medicaid. Those patients have access to home health services, but many of the patients that we would like to help have had either no success with the traditional forms of meeting with a primary care physician or live in an underserved area that frequenting a primary care physician for follow-up is not possible.

Chair Ohrenschall:

Are there any questions for Assemblyman Oscarson or the presenters?

Assemblyman Hickey:

This seems like a great idea. It is proven in a number of areas. I doubt you would find any person who would give any resistance to this, given the need and the efficiency of it. I am wondering, does it really need a study or do you think you can bypass that and just bring legislation forward next session?

Assemblyman Oscarson:

What we are trying to do here is bring everybody to the table. I can assure you that my intent, and I have expressed this to all of the people who have expressed interest in this program, we are going to go forward and put focus

groups and study groups together throughout the state to study this to make sure that it is viable.

It is interesting how, when you start to step out of some people's comfort zones, there is a tendency for people to get very concerned about it. We felt a study during the interim could help us allay any of those concerns, and bring good positive legislation next session that would have everybody on the same plane. All of us approve and appreciate when you come to the table and there is not a lot of objections to things.

Chair Ohrenschall:

Are there any other questions? [There were none.] Is there anyone in support of A.B. 361 who would like to be heard?

Tom Clark, representing Regional Emergency Medical Services Authority:

We are the ambulance provider in Washoe County. We are very much in support of this legislation. As you saw in the presentation, we did receive a sizeable grant from the federal government to study this exact program. We are the only paramedic company in the entire country to receive such a grant and we are looking at how best to analyze prehospital care, which is a key aspect of the new face of health care in our country. We need to make sure we can take care of that patient in their home, or transport them to a center instead of a hospital. I think this is important legislation. We definitely support it.

Chair Ohrenschall:

Are there any questions for Mr. Clark? [There were none.]

Michael D. Brown, Fire Chief, North Lake Tahoe Fire Protection District:

Fire-based EMS transport is the second ambulance service in Washoe County. We are in support of this bill. Mr. Hickey asked a very good question because a lot of services are currently doing some of what you saw in the presentation. But it is the wave of the future, and it is something that needs to be looked into and it does need to be broadened into a lot of different directions. I live in a small community. Population year-round is about 8,000 residents and swells to 30,000 when you count the tourists. We do not have a local full-service hospital. Transport times are greater than 45 minutes. We service seven different hospitals with the closest 19 miles away. Under the community paramedicine model, we have implemented the immunization program and it has worked very well. For patients that are bound to their homes and cannot get out, the services we provide have also worked well. We are in support of this bill and if there are going to be committees or groups formed, the fire service

and private purveyors should work hand in hand to try and ensure that everyone is at the table.

Chair Ohrenschall:

Are there any questions for Chief Brown?

Assemblywoman Kirkpatrick:

I want to ask, how do these persons get paid? That is one of the biggest obstacles we have today with ambulance service that they are paid half of their actual cost. Do you know of any discussions?

Michael Brown:

There are a lot of discussions taking place with the health care changes that are coming about. These programs are actually mentioned. Reimbursement through the different insurance providers as well was mentioned. I have not seen it carved out in stone, but potentially that is what is being looked at.

Tom Clark:

What Chief Brown was saying is that we provide these services now at a loss. Not all of the services are provided in the bill, and I think that is one of the reasons we have to do the study. Take a look at it and see where we can find opportunity and benefit to not only make the ambulance organizations whole, but to make sure that we are taking care of our patients as a whole as well.

Assemblywoman Kirkpatrick:

I just want to make sure that as we talk about this that we do not leave one group or another holding the bag with all the people that do not have insurance. That is an issue that has to be part of the discussion somewhere along the line.

Tom Clark:

I think that is the ultimate goal. To cover those people and give them a safety net; those that do not have insurance. We need to make sure that we do not have the sick and elderly and certain groups of folks who do not have insurance not getting care.

Chair Ohrenschall:

Are there any other questions? [There were none.] Is there anyone else in support of this measure who would like to speak?

Donna Miller, representing Life Guard International:

We are a Nevada-based air ambulance. As a health care provider with a presence in rural Nevada, we support A.B. 361.

Chair Ohrenschall:

Are there any questions for Ms. Miller? [There were none.] Is there anyone else in support of the measure who would like to speak? [There was no response.] Is there anyone in opposition to A.B. 361 who would like to be heard? [There was no response.] Is there anyone who is neutral on the measure who would like to testify?

Rusty McAllister, President, Professional Fire Fighters of Nevada:

We did sign in as neutral on this bill. Certainly, we want to make sure that if this bill is passed and the study is conducted that we have a seat at the table to be a part of those discussions as there are many issues we have concerns about. Some of these systems are being instituted across the country as profit making systems for hospitals and private ambulance companies. That is not to say that is going to take place here, but we certainly want to be a part of the discussions in the way that it is implemented, to make sure that all of the EMS providers, in northern and southern Nevada have input.

I am also the chairman of a health insurance trust fund. One of the concerns that I have is again, if we are going to make this a moneymaker for private EMS and hospitals. Currently, private EMS does not have to negotiate rates for EMS transport unless there is competition in the valley or in the area that they are working in. As an insurance provider, I certainly have concerns about something that has no competition and would have a monopoly on a service. It would make us very anxious and could be very expensive in the long run.

With those things in mind, we certainly would like to be a part of the discussions going forward.

Chair Ohrenschall:

Are there any questions for Mr. McAllister? [There were none.]

Ryan Beaman, President, Clark County Fire Fighters Local 1908:

We have many of the same concerns that Mr. McAllister mentioned. I wanted to expand on a couple of points regarding EMS as provided in Clark County. We run close to 140,000 calls for medical services and provide many of the services that were mentioned in the presentation such as checking vitals, blood pressure, blood sugar levels, and similar things. We agree with the sponsor that this needs an interim study to bring everybody to the table to discuss issues such as regulations and expanded role of services. There are other people that probably need to be brought in as well such as nurses and making sure that they understand that we are not trying to take their job away from them. And then all the data, how do we look at this, and the performance and the

outcomes of providing the service and how are we going to collect that information.

Chair Ohrenschall:

Are there any questions for Mr. Beaman? [There were none.]

Adam Plain, Insurance Regulation Liaison, Department of Business and Industry, Insurance Division:

We are neutral on the bill. We did have an opportunity to speak with Assemblyman Oscarson and we, as with any study regarding health care and insurance, would be happy to provide our services to make sure this study is carried out in as effective a manner as possible.

Chair Ohrenschall:

Are there any questions for Mr. Plain? [There were none.]

Pat Irwin, Emergency Medical Services, Department of Health and Human Services, Health Division:

We are neutral on this bill and if this study does move forward, we wanted to give full confidence that we would supply any information, support or statistics that you would need to move forward with this.

Chair Ohrenschall:

Thank you. Are there any questions for Mr. Irwin? [There were none.] Is there anyone else who is neutral on the measure who would like to speak? [There was no response.] Mr. Oscarson, are there any closing remarks you would like to make?

Assemblyman Oscarson:

I know our time is short. This is exactly the reason we want to do a study. You heard these gentlemen come to the table and say they had these concerns and these thoughts about how it could be done. We want them all at the table. We want to collaborate together so we can bring good legislation in 2015.

Chair Ohrenschall:

Thank you. I will now close the hearing on Assembly Bill 361. Mr. Oscarson, if you will rejoin us up here on the dais. We have a work session on one bill.

**Senate Bill 458: Enacts the Uniform Faithful Presidential Electors Act.
(BDR 24-704)**

Susan Scholley, Committee Policy Analyst:

Senate Bill 458 enacts the Uniform Faithful Presidential Electors Act. It was sponsored by the Senate Committee on Legislative Operations and Elections and was heard in this Committee on May 7, 2013. [Read from work session document ([Exhibit I](#)).]

Chair Ohrenschall:

Is there any discussion about the bill? [There was none.] I will accept a motion.

ASSEMBLYMAN ELLIOT ANDERSON MOVED TO DO PASS
SENATE BILL 458.

ASSEMBLYWOMAN FLORES SECONDED THE MOTION.

Is there any discussion on the motion?

THE MOTION PASSED. [ASSEMBLYWOMAN KIRKPATRICK
VOTED NO.]

I will assign the floor statement to Assemblyman Thompson. Now I would like to open the meeting to public comment. If there is anyone present who wishes to speak, please come forward. [There was no response.] As there is no further business before the Committee I will close today's hearing [at 7:14 p.m.].

RESPECTFULLY SUBMITTED:

Karen Pugh
Committee Secretary

APPROVED BY:

Assemblyman James Ohrenschall, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Legislative Operations and Elections

Date: May 14, 2013

Time of Meeting: 4:13 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 228 (R1)	C	Caren Cafferata-Jenkins, Esq., Executive Director, Commission on Ethics	Presentation
S.J.R. 8	D	Senator Tick Segerblom, Clark County Senatorial District No. 3	Presentation
S.J.R. 8	E	Assemblywoman Lucy Flores, Clark County Assembly District No. 28	States with Biennial Sessions
S.J.R. 8	F	Assemblywoman Lucy Flores	Survey of Nevada Legislators Percentage of a Full-Time Job
S.B. 283	G	Senator Joseph (Joe) P. Hardy, Clark County Senatorial District No. 12	George M. Keele letter in support
A.B. 361	H	Jared Oscarson, NREMT-P, Captain EMC Clinical Services, Humboldt General Hospital	PowerPoint Presentation
S.B. 458	I	Susan Scholley, Committee Policy Analyst	Work session document