

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

**Seventy-Seventh Session  
February 21, 2013**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Pat Spearman at 9:06 a.m. on Thursday, February 21, 2013, in Room 1214 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Pat Spearman, Chair  
Senator Mark A. Manendo, Vice Chair  
Senator Kelvin Atkinson  
Senator Barbara K. Cegavske  
Senator James A. Settelmeyer

**GUEST LEGISLATORS PRESENT:**

Senator Joseph P. Hardy, Senatorial District No. 12

**STAFF MEMBERS PRESENT:**

Carol M. Stonefield, Policy Analyst  
Melissa Mundy, Counsel  
Mary Moak, Committee Secretary

**OTHERS PRESENT:**

Warren B. Hardy II, Nevada Restaurant Association  
George A. Ross, Las Vegas Metro Chamber of Commerce  
Tray Abney, The Chamber Reno-Sparks-Northern Nevada; National Federation of Independent Business  
Lea Tauchen, Retail Association of Nevada  
Geoffrey Lawrence, Deputy Policy Director, Nevada Policy Research Institute  
Janine Hansen, Nevada Families  
Danny L. Thompson, Executive Secretary-Treasurer, Nevada State AFL-CIO

Al Martinez, President, Service Employees International Union Nevada,  
Local 1107  
Stacey Shinn, Progressive Leadership Alliance of Nevada  
Paul McKenzie, Executive Secretary-Treasurer, Building & Construction Trades  
Council of Northern Nevada, AFL-CIO  
Patrick T. Sanderson

**Chair Spearman:**

Today we are hearing Senate Joint Resolution (S.J.R.) 2.

**SENATE JOINT RESOLUTION 2:** Proposes to amend the Nevada Constitution to  
abolish the requirement that an employer who does not provide health  
benefits pay a higher minimum wage. (BDR C-473)

**Senator Joseph P. Hardy (Senatorial District No. 12):**

I have a prepared statement ([Exhibit C](#)) and PowerPoint presentation ([Exhibit D](#)).  
Senate Joint Resolution 2 is different from the ballot measure presented in  
2004 and 2006. If S.J.R. 2 passes the Legislature this Session, it returns during  
the 2015 Legislative Session and people would vote on it in 2016.

The resolution's premise is every employer should pay the same minimum wage,  
because the Affordable Care Act (ACA) will require all employees to be covered  
by health insurance. The lowest paid employee will be covered by Medicaid with  
gradations up from there to a family of four earning about \$80,000 a year who  
would not receive subsidies to buy insurance on the Silver State Health  
Insurance Exchange.

In 2004 and 2006, the people of Nevada voted for a bifurcated minimum wage.  
They did so knowing that people needed health insurance and a wage more than  
the federal minimum wage, which at that time was \$5.15 per hour. It was easy  
to see how Congress could justify and vote for an increase in the federal  
minimum wage to \$7.25 an hour. The increase caused Nevada's minimum wage  
to match the federal minimum wage. Nevada added \$1 and increased the rate  
to \$8.25 an hour for employees not provided health insurance by their  
employers.

Congress has solved the health insurance coverage problem for everyone with  
the ACA, and thus employers will have less a need to provide health insurance  
for employees. Granted, employers are at risk to pay a penalty for not providing

coverage if they have 50 or more full-time equivalent employees. Each employer will have to pencil out the cost of the \$1 more per hour wage plus a penalty to see how it will affect the business's bottom line. Employers will have to make choices to lay off or make employees part time.

I suggest the Legislature allow the people of Nevada to revisit the minimum wage law by voting for S.J.R. 2 because today's economic landscape is different from that of 2006, and opinions change.

People want jobs. Now that health insurance is not a sword hanging over their heads, we owe them the right to vote for an economy that puts them back to work. This is especially true for those in need of training and growing in work experience. Parenthetically, I would add that instead of increasing the minimum wage to match the federal \$9 an hour wage—and thus \$10 an hour to Nevada's employees whose employers do not provide health insurance over and above the ACA level—we consider the studies that show that minimum wage increases do not reduce poverty. The Earned Income Tax Credit (EITC) may be a better way to go.

The EITC has been shown to reduce poverty and does not have a deleterious effect on job hiring. The \$9 an hour minimum wage that already exists in North Dakota was discussed in an article in last week's *Wall Street Journal* ([Exhibit E](#)). Economists have completed extensive studies and found raising the minimum wage causes job loss. This has been particularly demonstrated in overall teen job losses and more particularly for minority youths, which [Exhibit D](#), page 14, alludes to.

There is a penalty under the ACA for large businesses with 50 or more full-time equivalent employees if they do not provide qualified health insurance coverage to full-time employees. Hours worked by part-time employees, those working less than 30 hours per week, are included in the calculation of a larger employer to determine if they have 50 or more full-time equivalent employees, [Exhibit D](#), page 7.

If the employer does not provide insurance, the penalty is \$2,000 per full-time employee after the first 30 employees. If an affordable policy is not provided, then there is a \$3,000 per employee penalty. Affordability is defined as less than 9.5 percent of the employee's family income. So the choices of the employer are either provide health insurance to the tune of \$7,500 to

\$11,000 annually for each full-time employee, pay a \$2,000 penalty directly to the federal government or provide some health insurance and pay only a \$3,000 penalty for not providing affordable health coverage to the employee.

The employer is going to be faced with the decision of keeping 50 or more full-time equivalent employees, firing people, laying people off or cutting employees' hours.

The extra dollar an hour in minimum wage received by the employees in Nevada for not being provided health care from their employers does not help the workers because they will be working fewer hours or possibly be out of a job.

The ACA is effective January 2014. Nevada has already taken money from the ACA and is going forward with both the ACA on the Medicaid acceptance and the Silver State Health Insurance Exchange. Members of Congress, parenthetically, will get their health insurance through the exchange. When you see "competitive insurance marketplace," [Exhibit D](#), page 9, that is referring to the exchange we have in Nevada, the Silver State Health Insurance Exchange.

The ACA will open a door for literally billions of dollars of health care costs to be saved by various companies when they start reviewing the costs and looking at the \$2,000 fine which goes directly to the federal government. The ACA opens the door for health insurance companies to write more individual policies, which tend to be more expensive than group policies.

The restaurant industry is one of the most hard-hit that we have, particularly in the area of people who are starting out, getting jobs, work skills and work opportunities. In my presentation, I provided a link to an article in the *Wall Street Journal*, [Exhibit E](#), that talks about the Minority Youth Unemployment Act, alluding to the minimum wage issues, [Exhibit D](#), page 13. Young people ages 16 to 19 do not do as well with employment as everyone age 16 and over. This shows we have problems trying to get people in the 16- to 19-year-age group employed, [Exhibit D](#), page 14.

In 2006, when the public last voted for the minimum wage, we had a different political and economic landscape. The intention is not to lower the minimum wage but to set it at the federal level. This will allow the health insurance that covers everybody to take effect and not doubly penalize employers.

We need to be in a position where we can bring business and jobs to Nevada.

**Senator Cegavske:**

What is the purpose of Nevada's minimum wage being \$1 above the federal minimum wage?

**Senator Hardy:**

I am proposing we unbifurcate the minimum wage and have the same minimum wage as the federal government.

**Senator Cegavske:**

You talked about \$1 more. Your proposal shows the rate would go up to \$8.25; the State's minimum wage is now \$7.25.

**Senator Hardy:**

That is the minimum wage as we know it now. If a person does not have health insurance through his or her employer, the employee will be paid \$8.25 an hour. Inasmuch as the ACA is going to provide health insurance for everybody, there is no longer a need to have an increased minimum wage for those people who are not provided health insurance. What I am proposing in the bill is for a minimum wage of \$7.25 an hour, which is the federal minimum wage. Nevada is one of four states that has the highest minimum wage when you factor in the \$8.25 an hour.

**Senator Cegavske:**

If the federal minimum wage is increased with this bill, would we have to raise the wage or would we stay at the current rate?

**Senator Hardy:**

If the proposal is to raise the minimum wage to \$9 an hour, all States' minimum wages would go up to \$9 an hour. In Nevada, if employers do not provide health insurance to their employees, the wage would go to \$10 an hour.

**Warren B. Hardy II (Nevada Restaurant Association):**

I have a prepared statement ([Exhibit F](#)). As long as I have been involved in public policy, there has been a debate about minimum wage and what the impact of minimum wage is in reality. Because minimum wage has been around so long, we actually are not dealing in hypotheticals anymore. We understand

what the impact of minimum wage is to businesses. The impact is amplified when it comes to the restaurant industry.

The restaurant industry is identified as a major provider of minimum wage jobs. A lot of people do not realize, according to the U.S. Bureau of Labor Statistics, that a small percentage of restaurant industry workers make just minimum wage, about 5 percent. Of that 5 percent, statistics show that about 80 percent are part-time workers. Seventy percent of that 5 percent are under 25 years of age and just under 50 percent are teenagers. What that tells us is the restaurant industry is a major provider of entry-level jobs.

Unfortunately, this is where the impact of minimum wage is being shown to lie. Ninety percent of all restaurants are considered small businesses. They have an average pretax profit margin of 3 percent to 4 percent. Most business folks will tell you it is crazy to try to run a business on a 3 percent to 4 percent pretax profit margin, but that is what the industry does. When businesses are operating on that kind of level and costs go up anywhere, one of two things has to happen. One, prices have to go up. Two, costs have to go down. The restaurant industry is not unlike most industries in that the only thing they have discretion over is the cost of labor. Business owners do not set the cost of food and other required materials. Those costs drive us; we do not drive them. When owners are faced with that decision, they can only raise prices so much to accommodate increased costs. Business owners are forced to look at reducing labor costs as a way to accommodate those impacts. Who does this impact? The reduction of labor cost does not impact the skilled workers: the chefs, the cooks, the servers and the managers. These people are making well above minimum wage and it does not impact them at all.

I have a daughter who is a server with a major food service chain. When she talks to her colleagues about job opportunities, they never talk about the wage, but about the potential for tips. They all make minimum wage, which is why the restaurant industry is one of the highest payers of minimum wage. My daughter looks at her hourly rate as savings; she puts her paychecks into savings and lives off her tips.

Restaurant operators are forced to look exclusively at the low-skilled worker when they are making cuts. Two people are impacted. One is the entry-level employee, the low-skilled worker who is trying to break into the industry. As we have said, the restaurant industry provides entry-level jobs for teenagers and

college students. The other person is the consumer. The impact on the prices for the consumer is disproportionately allocated to the fast food industry.

The people who are impacted by this are the low-skilled workers: the dishwashers, the bussers, the employees in the entry-level positions. When the business operator eliminates these lower cost jobs, those responsibilities are placed on more skilled workers.

**George A. Ross (Las Vegas Metro Chamber of Commerce):**

Senate Joint Resolution 2 is about jobs. If there is something this Country needs right now, it is jobs. This resolution is a job-saving resolution.

A number of your colleagues have stated that the Modified Business Tax (MBT) does not make sense because it is a disincentive to hire people. The MBT is about 1.17 percent of payroll for nonfinancial firms. One dollar divided by \$7.25 translates to 13.8 percent of wages paid to a minimum wage employee. If 1 percent is a disincentive to hire or to keep an employee, imagine the level of disincentive when you are making these decisions in a narrow margin business.

The people who earn minimum wage, especially in our State, are mainly people who work in restaurants, people who are in entry-level jobs and young folks looking for their first jobs. [Exhibit E](#) provides interesting data about the impact of minimum wage changes on minority youth, in particular unemployment.

Keeping the \$1 an hour, the bifurcated minimum wage, becomes a minimum wage increase. When the bifurcated minimum was passed, it had admirable objectives—getting companies to provide employees with health care. Knowing that a lot of small businesses in Nevada were not able to provide health care, it was a way to get employees an extra \$1 an hour minimum wage.

Business owners do not need an incentive anymore to provide health care. Nevada is leading the Nation in implementing our health insurance exchange. The people who are at this level of income, minimum wage or slightly above, will either be on Medicaid or they will be getting a subsidy to buy health insurance. The \$1 an hour incentive is no longer needed.

What will the \$1 an hour incentive to provide health insurance be if it survives? It will be a disincentive, at a level many times that of the MBT, to hire minimum

wage employees. Small business owners or businesses that hire minimum wage workers will need to reduce their payrolls to still make a profit.

Republicans would like to raise minimum wage because they feel if we are going to get a guy off welfare, we better pay him or her enough to make a living. Democrats would like to raise minimum wage because they say, as President Obama said in his State of the Union speech, how can a person or a family possibly live on minimum wage?

A minimum wage earner rarely lives on minimum wage. [Exhibit E](#) states 40 percent of minimum wage earners live with their families or with relatives. The average salary of a family with a minimum wage earner is over \$47,000. If employees are being paid minimum wage, they are not just receiving minimum wage but also are qualifying for the Earned Income Tax Credit (EITC) and are probably on Medicaid. If you are not on Medicaid and go to a hospital, you are getting free medical care. In addition, the employee is getting food stamps, so you are not quite trying to live on \$14,500 a year.

None of us would want to live on the amount of money I have just described, but it is not quite as dire as we describe. The Las Vegas Chamber of Commerce urges you to approve [S.J.R. 2](#). It is clearly a jobs bill.

**Senator Cegavske:**

As a former business owner, all of these issues weighed heavy on our decisions about employees. We had employees with different levels of education to apply within our confines, and we paid more based on what they did. Minimum wage was one issue for us, but the MBT made a huge impact with our employees. We had to lay off people to keep under a certain number and had to work more hours. Every business is a little bit different, but the small business and the taxes you are referring to, especially in this economy, are being affected. I look at my district and I feel like I am in a ghost town. Everything we do affects every one of the businesses in the district.

I am concerned about what could happen in our State with an increase to the federal minimum wage. It concerns me that our minimum wage could go up to \$10 or more an hour.



Many in the business community can send the Committee information or letters, or they can call us. They cannot afford to come to Carson City and lobby for themselves because it is expensive and takes time away from work.

I do not know how to rectify the \$1 an hour additional minimum wage if the federal minimum wage increases.

**Tray Abney (The Chamber Reno-Sparks-Northern Nevada; National Federation of Independent Business):**

A point that needs to be made here is the more expensive you make something, you tend to get less of it. The more expensive you make it to hire somebody, you will have less hiring.

A study that was done by the U.S. Chamber of Commerce ([Exhibit G](http://www.uschamber.com/sites/default/files/reports/201103WFI_StateBook.pdf)), <[http://www.uschamber.com/sites/default/files/reports/201103WFI\\_StateBook.pdf](http://www.uschamber.com/sites/default/files/reports/201103WFI_StateBook.pdf)>, came out about this time during the 2011 Session, entitled *The Impact of State Employment Policies on Job Growth*. The study looked at all 50 states. We talk a lot about tax policies in this building, and we should. It is a good conversation, an important one to have about how tax policies and certain taxes affect employers or hiring. This study did not look at taxes at all, it looked at all the other factors employers had to deal with when deciding to hire people. The study ranks states in three tiers—good, fair and poor—in terms of pro-job growth policy. Nevada was ranked in Tier 3, the poor category. The study lists several factors, overtime requirements, employee handbooks, etc. One of the factors it lists is a state minimum wage that exceeds federal law.

There is a lot of talk that when you raise the minimum wage you are going to give somebody a pay raise. When I turned 16 and had my first job, I washed pots, scrubbed floors and cleaned bathrooms. When I was hired, the federal minimum wage was \$4.25 an hour and it was raised twice in 2 years. Both times when the minimum wage increased, our prices increased as well. A lot of business owners are put in that situation. They operate at very low margins, so when they have to pay more out in wages, they have to raise their prices.

When minimum wage workers get raises, then shop for goods and services, they are paying higher prices. I would argue they probably did not get much of a raise at all.

I urge this Committee to adopt this bill. When the wage we have in place now was adopted, when the people voted for this, we were in a much different economic times. The ACA, is one more concern to employers.

**Lea Tauchen (Retail Association of Nevada):**

I am testifying in support of S.J.R. 2. I would like to echo the comments of the supporters before me and reiterate we are concerned that Nevada's two-tiered minimum wage requirements restrict employers' ability to keep people employed. We need policies that give private sector managers the tools to remain competitive. We urge your support of this resolution.

**Geoffrey Lawrence (Deputy Policy Director, Nevada Policy Research Institute):**

There are few areas of genuine consensus among economists, but the impact of the minimum wage is one of them. Whenever you set a minimum wage rate above the market clearing price for labor, you increase the rate of unemployment, at least for the segment of workers who are unskilled and making a relatively low wage to begin with—typically entry-level workers. Minimum wage has the effect of pricing unskilled and many entry-level workers out of work. [Exhibit D](#), page 14, shows how the unemployment rate for 16- to 19-year-olds is far higher than for the older segments of the population and why minimum wage has a big impact. The unemployment rate is going up above 40 percent for 16- to 19-year-olds who are black. This prevents entry-level workers from gaining the job skills and experience necessary for workers to move up the income ladder and consequently holds down their income mobility because they cannot get their feet in the door.

With the increase of minimum wage, many industries that employ entry-level workers, such as the restaurant industry, mechanize jobs to save money. Businesses put more capital into equipment to do the jobs a person once did.

The economic impact of minimum wage pricing out unskilled labor was well understood by the original advocates of minimum wage. In the late 19th century, the original minimum wage advocates wanted to price out what they called parasitic labor, primarily minorities and women, who were more likely to be unskilled. Sidney and Beatrice Potter Webb were some of the first advocates for minimum wage law. They published a book called *Industrial Democracy* in 1897. They went through exactly what I am talking about right now.

With the \$1 additional rates, Nevada has the fourth-highest minimum wage rate in the Country. Only Washington, Oregon and Vermont have higher minimum wage rates. Nevada's Constitution is structured so our minimum wage rate not only has the additional \$1 over the federal rate, but also has an inflation adjustment based on the Consumer Price Index. The disparity between the federal level and our State level will grow over time. Nevada will continue to move up the ranking of states that have a high minimum wage. This is particularly burdensome because we are pricing out our own workers more so than in other states.

**Janine Hansen (Nevada Families):**

I am here today with a personal story. This is a reasonable bill and an important way to respond to the changes that have taken place in America in the last few years.

My own family has experienced tremendous difficulties in the economic downturn. My husband lost his job; my stepson lost his job twice and his home. My daughter lost her job, my son-in-law is currently unemployed, so this is a huge issue in our family.

When my children were growing up, they all had jobs. They were working for minimum wage and learning skills. Two of my children now have their own businesses as a result of their experiences. Two others have good jobs because of the opportunities they had to build skills.

When we have a situation where unemployment is very high, especially among young people, it impacts their future. It is real when you look at the experience of your own family. I have 11 grandchildren. Soon they will be teenagers, and I want them to have as optimistic a future as my own children had with the opportunity to learn work skills. It is critical for their future to learn how to work, to learn the basic things of showing up on time, doing your job and being responsible. When the minimum wage essentially prevents them from being hired or makes someone else a better hire, these young people will not get the experience they need.

I saw an article on the Internet which concerned me ([Exhibit H](#)). We hear a lot about the recovering economy, but there are two sides to that story. A private memo from Wal-Mart stated February sales were a total disaster. [Exhibit H](#) lists retailers that are planning to close stores all around the Country: J.C. Penney,

300 to 350 stores; Kmart, 175 to 225 stores; Sears, 100 to 125 stores; RadioShack, 450 to 550 stores; Best Buy, 200 to 250 stores; Office Depot, 125 to 150 stores; Barnes & Noble, 190 to 240 stores; and OfficeMax, 150 to 175 stores. Many people are unemployed or underemployed. Anything we can do to increase the opportunity for people to obtain jobs is important.

As for what is happening in the European economy, 50 percent of young people are unemployed in Spain. We heard statistics that for minorities, up to 40 percent of young people are unemployed here. This destroys their future opportunities.

I encourage you to support this resolution which will help to put us out of a situation where we are discouraging the hiring of young people who need an opportunity for the future.

**Chair Spearman:**

The Internet article you referenced: did it identify a specific reason or group of reasons as to why the stores were closing?

**Ms. Hansen:**

One of the reasons stated was that store sales were way down. The companies were having to consolidate because stores were not profitable. As a way to stay in business, they were closing locations. People do not have the money to go and shop.

**Danny L. Thompson (Executive Secretary-Treasurer, Nevada State AFL-CIO):**

In 2002, the Nevada State AFL-CIO recognized the minimum wage law in Nevada was not sufficient for eating and putting a roof over one's head. It was not a wage with which people could survive.

The Nevada State AFL-CIO put together a coalition to look at how best to solve this problem. We made a presentation to the Legislature to raise the minimum wage. The Legislature chose not to act on the request. After the unsuccessful attempt to bring our request before the Legislature, the AFL-CIO coalition started a campaign. We used the provision in Nevada's Constitution and law to seek an initiative petition to amend the Constitution. The Nevada Constitution can be amended in two ways, one through an act of the Legislature and the other by a vote of the people. Our initiative stated Nevada historically has been

tied to the federal minimum wage. The federal minimum wage had not been raised for years and there was no hope of it being raised.

In order for the initiative to raise the minimum wage to be placed on the ballot, we had to gather signatures from 10 percent of the registered voters in 13 of the 17 counties. The requirement to collect signatures from 13 of 17 counties has since been struck down by the courts as unconstitutional, but at the time it was a requirement. Not only did we campaign in Reno and Las Vegas, but Elko, Ely, Winnemucca, Hawthorne, Tonopah and Gabbs. The coalition spent in the neighborhood of \$500,000 in that process. The coalition was successful in obtaining signatures from an excess of 10 percent of the registered voters in every county. In many cases closer to 20 percent of people, when asked "should the minimum wage be raised," overwhelmingly said to change the law. We did not ask if they were Republicans or Democrats, business owners or minimum wage earners.

Health insurance costs were increasing and becoming unaffordable. A quarter of the State's people were uninsured. When uninsured people access health care, they always access it at the most expensive point, which is the emergency room. When the providers, doctors or hospitals do not get paid through one process or another, the only thing they can do is to raise the rates on everyone else. You could draw a direct line to those uninsured individuals for the rising cost of health care. A provision in the initiative provided \$1 less per hour wage for employees whose employers provided health care coverage. The \$1 less per hour rate would offset the cost employers were paying for health care.

We were successful in gathering the signatures and submitted them to the Secretary of State, as provided by the State Constitution. The initiative appeared on the 2004 general election ballot. The initiative was successful in 2004 and was placed on the 2006 ballot. Ultimately, the initiative was approved. The increase of the minimum wage initiative received more votes than any candidate or any other issue on the ballot to the tune of 68 percent. The Nevada State AFL-CIO reintroduced the bill in the interim asking the Legislature again to raise the minimum wage after it had passed once, and the request failed.

During the campaign, opposition to the initiative said it would destroy business, cause rampant unemployment and destroy entry-level jobs. None of that

happened because of two things. First, it was a level playing field for every business. We found in the process that most employers were already paying above minimum wage to keep the employees they had. Many employers realized that employees and their families could not live on \$5.15 an hour. Second, minimum wage earners do not have Swiss bank accounts. They get a dollar, and they spend a dollar. They do not go to California to spend the dollar, they recirculate the dollar in the community in which they live.

It is interesting to hear some of the testifiers talk about how the things we heard during the 2002 campaign are going to happen. They did not happen. We do not support this change.

I have listened to people talk about diversifying our economy for the past 32 years. The fact that we have a reliance on the gaming industry to pay our bills is the problem today. It was the problem yesterday and it was a problem in 1980. Because we have such a large reliance on the gaming industry to pay our bills, which almost solely relies on people who have discretionary funds to spend, our tax structure cannot survive, take Nevada into the future and diversify the economy.

This sounds off the beaten path, but it is not. In 1981, when the tax shift was voted on, the only place you could legally gamble in America was Nevada. Today, you can gamble in every state in the Union and on any American Indian reservation that chooses to have gambling. Macau China is rapidly becoming the new Las Vegas of the world. There has been so much talk about how bad our economy is, and it is. I have visited other places, and they are recovering. The gaming industry relies on people with discretionary dollars, and we will be the last to recover.

Nevada has the lowest graduation rate and the highest classroom sizes in secondary education in America. There is a direct correlation to the fact that we have never diversified our economy. Until we change that, our economy is not going to change.

The Nevada State AFL-CIO does not support changing the minimum wage law. We view this as a step backward. This law was approved by the people, by a group that included small business interests that came forward and supported it. The Legislature should not interfere. If people want to change this law, they

should use the process completed by the people, because the Legislature had an opportunity to act on this issue.

Issues with the ACA that we are concerned about include the cost of providing health care versus the penalty for not. We are concerned the ACA could lead to more part-time employees, since employers do not need to provide health coverage for part-time employees. The ACA could lead to employers choosing not to provide health coverage, paying the \$2,000 fine and getting out of the system. The figure of \$11,000 a year for health coverage is a low-ball number. If choosing between a charge of \$11,000 or \$2,000, a lot of employers may take the \$2,000 route and pay the fine. We are concerned. This problem needs to be addressed, and we are working on addressing the problem.

The Nevada State AFL-CIO opposes this resolution as written. We have proposed an amendment ([Exhibit I](#)), which states that each employer with the equivalent of 25 or more full-time employees shall pay to the State an annual fee of \$2,000 for each employee for whom the employer does not make available affordable health and hospital benefits to cover the employee and the employee's family. Affordable benefits are those with an out-of-pocket cost to the employee, including premiums, deductibles and copays, of less than 5 percent of the employee's gross income. Fees paid by the employers shall be used exclusively to help low-income employees defray the cost of health care, including purchasing coverage from an exchange established under the ACA. Even with the passage of the ACA, health care affordability is an issue for these people.

We propose the amendment if you move forward with S.J.R. 2.

**Senator Cegavske:**

The issues of dual health coverage have not been mentioned. We asked the employees who worked at our store if they would like to have insurance coverage. Most of our employees said they would rather have more pay because they were covered on a spouse's health plan. In your amendment, in reference to paying \$2,000 per employee, what about families with dual coverage? Is it fair to the employer to have to provide insurance if the employee already has coverage?

**Mr. Thompson:**

We did not account for dual coverage. There have been attempts to negotiate an opt-out clause for our trust funds. Most are not successful. When a family member of a spouse has a different coverage, one becomes primary and one becomes secondary, and they both pay.

**Al Martinez (President, Service Employees International Union Nevada, Local 1107):**

I have provided written testimony ([Exhibit J](#)). I am here to express opposition to S.J.R. 2. Once again, it feels like we are moving in the wrong direction. If I understand the intent, it looks like employers are looking to save money on labor costs. What this change fails to recognize is the tremendous cost savings that employers have secured by not providing health care insurance for their employees. Taking into consideration that the health care premiums for a family can run up to \$24,000 a year for an employee, I do not think keeping current statute that requires an additional \$1 an hour is asking too much. Everyone here knows that the additional \$1 in pay in no way, shape or form will cover the cost of a health care premium. But what it could provide is an extra bag of groceries, milk, a loaf of bread, a tank of gas or small portion of payment for child care.

Please take into consideration that this Committee is voting to undo legislation already on the books. Lawmakers have already made the decision that employers should pay an additional \$1 an hour if they do not provide health care insurance. I concur with Mr. Thompson's comments with the ACA issues as well. Nevada needs to continue to take a step in the right direction. I hope we can count on your support on this matter.

**Stacey Shinn (Progressive Leadership Alliance of Nevada):**

I have provided written testimony ([Exhibit K](#)). We are here in opposition to S.J.R. 2 for several reasons. First is the minimum wage itself. The federal \$7.25 minimum wage is among the lowest in purchasing power, adjusted for inflation, since the Great Depression. If anything, Nevada should be looking at raising the President's recommendation to Congress, which is \$9 an hour. Even if Nevada set the minimum wage at \$10, this would still be below minimum wage in 1968, adjusted for inflation. I would also like to point out that some youths under 20 years of age in Nevada can be paid a lower training wage, lower than minimum wage. There is also an exemption for some tip employees.



Second is the income inequality issue. Wage inequality has been skyrocketing over the past few decades. It is now the greatest in the U.S. since we started taking and keeping statistics on record. Worker pay overall has remained absolutely flat for the past 25 years, while employer profits continue to increase.

Third is purchasing power. Someone working 40 hours per week at minimum wage would not meet the federal poverty threshold for a family of three. Wherein a person makes about \$15,000, and the federal poverty line is over \$18,000.

Third is health care itself. Most Nevada employers affected by this law, paying a higher minimum wage instead of providing health insurance, are exempt from the ACA provision requiring them to do so because they have 50 or fewer employees. These workers would also likely qualify for the expanded Medicaid in Nevada at our taxpayers' expense. These same employers also qualify for the tax credit incentive under the ACA to offer that same insurance. To allow the employers to pay less than what they currently pay gives them incentives not to take advantage of the tax credits and follow the intent of the law, pushing the cost onto our taxpayers.

**Paul McKenzie (Executive Secretary-Treasurer, Building & Construction Trades Council of Northern Nevada, AFL-CIO):**

We are also opposed to this resolution. We were last in this House to resolve the minimum wage issue legislatively. Many of the proponents of this legislation were at the table opposing raising the minimum wage at that time. Many of the same arguments stated then are being made now. We did not see these things happen.

The high unemployment rates we have in this State cannot be traced back to the minimum wage. The effects of minimum wage on youth employment was one of the topics we discussed at length when addressing this legislatively. There were proposals to have a tiered minimum wage system, which would give employers who hired youth employees a lower minimum wage. The employers stated this would not assist them. Walk in the front door of Wal-Mart and see all the minimum wage workers and you will understand why. The minimum wage workers of today are not the minimum wage workers of our youth. When I was a high school student and worked for minimum wage, you never saw an older adult applying for a job at the same level as us youth. Those who were

retired were living comfortably on their retirement. They did not have to seek additional employment to get by. Families did not need two incomes to make ends meet. That effect has eliminated the youth jobs. Mom and dad are both having to work to make ends meet. Senior citizens are having to find jobs to subsidize their incomes because they do not have pensions to live on. If we are to bring youths back into the work place, we need to fix these problems first. Lowering the minimum wage is not going to fix it.

I would like to put a dollar figure to what we are talking about. Senator Hardy mentioned the effects on the restaurant industry. A restaurant should be serving at least 10 customers per hour to stay in business. The employee is being paid \$1 an hour more under the current minimum wage law than what this proposal would allow. Being a little conservative, let us have a 20 percent rollup rather than the 14 percent we usually use, meaning it would cost an additional 12 cents per employee per customer for the \$1 an hour. If you have five employees serving that customer, that would equate to 60 cents per customer for \$1 an hour above minimum wage. The \$1 an hour seems big when you compare it to percentages of wage. One dollar is a lot when you compare it to the wage people are making. But when you sketch it out and show the true effect it has on the business, it is not that big a number.

This is the discussion we had with a Legislator when trying to get the Legislature to act on minimum wage. The argument that it was such a huge effect has not proven out, as we have seen.

**Patrick T. Sanderson:**

One thing that S.J.R. 2 does not look at is the people who are working the minimum wage jobs. I communicate with them on a personal level. I have worked in restaurants, retail and construction. Many employers are only providing insurance to employees who work 40-hour work weeks, but employees are offered only 24, 30 or 39 hours per week. The wage of \$7.25 or even \$8.25 is not enough to live on. Most minimum wage workers work two to four jobs in order to survive. Every penny these employees earn goes back into the economy. It goes to the retail stores and fast food markets because they do not have time to go home, fix a dinner and eat. When they finish one job, they go to a second job on the same day. These are hardworking people trying to exist, trying to live as human beings on minimum wage. To lower the minimum wage would be a disgrace. You need to have a living wage to live on.

An important provision of the ACA is to give people an opportunity to have health care, which saves businesses money. If your employees are sick all the time and do not show up for work, you lose money. There are hundreds of reasons to fight for this medical care provision, but companies are finding ways to go around it. The best price for a health insurance plan is often through insurers covering many employers, as this brings the plan cost down.

Another factor with minimum wage is high turnover. If workers are unable to live on the wages, take care of their families and work multiple jobs, they will find something better.

The reasons given for not raising the minimum wage have not developed. But people made \$40 more a week if they were working 40 hours a week. That is \$160 a month, before taxes, to purchase clothes, gas and car insurance. People cannot get by on \$7.25 an hour, but people are doing it by working three jobs.

I hope you will look at this resolution and realize it is bad for our State. We take care of our own people. This is the greatest State around. If we are one of the top four states with the highest minimum wage, that is fantastic because we are on the bottom of every other list that comes along.

**Senator Cegavske:**

What organization do you represent?

**Mr. Sanderson:**

I do not represent an organization. I live in Carson City and I talk with people at Starbucks, Wal-Mart and other businesses. I ask them how their lives are. I am involved with Nevada Alliance for Retired Americans. Most of our members are back out in the work force, at minimum wage, because they need to earn additional income. This contributes to the difficulty for our youths to find jobs.

**Senator Cegavske:**

Two visions are being spoken about today. Each of us needs to walk in the other's shoes. Businesses are struggling as well. Ranchers have had increases in the cost of feed and water.

When I was an employer, we talked with our employees about their lifestyles and what they were going through. As an employer, we would share our struggles. We had 2 or 3 months each year we would be lucky to break even,

and sometimes we did not. The business would have to save money to make sure we could make our payments. There are struggles on the employer's side. With this economy, businesses are going out of business; people are losing jobs. People would rather have some type of income rather than no employment.

When you speak with people, do you talk with employers as well? The same goes out to everyone who is against this bill. Have you reached out to both sides?

Depending on your business, it is not easy for business in Nevada. The fast food industry is doing a little bit better as people have changed the type of restaurants they frequent. My district is like a ghost town, complexes are empty and people are losing their businesses. I know people would rather be working, earning an income. They do not want to sit at home and collect benefits.

**Mr. Sanderson:**

I have been involved in businesses; we had restaurants and bars. I understand both sides of the coin. Businesses are doing poorly now because of the economy. Taking money away from the economy does not help the economy. The only way the economy will improve is more people working at a higher wage and those dollars being spent back into the economy, whether it is to live, eat, drive to work, buy food or buy clothes for your job. Every single penny earned by a minimum wage worker helps him or her to exist. If you take that money away from the economy, you destroy the economy. Taking it back does not help.

**Chair Spearman:**

Senator Hardy, as the law stands now, Article 15, section 16, subsection C exempts persons under the age of 18. On [Exhibit D](#), page 14, much of the symmetry for your argument includes not only ethnicity but also age. If you take the persons under 18 out of the equation, how will this alter your thesis?

**Senator Hardy:**

I do not have the statistics available to me. I am not sure they exist. We crafted our language to protect the 16- to 17-year-olds from having to have a higher minimum wage, so there is an opportunity for the 16- to 17-year-olds to still work for, quote, "under the minimum wage." Most people graduate from high

school when they are aged 17 or 18, and we want those people in the job market on a permanent basis so they can develop those skills that they need.

**Chair Spearman:**

If the information is not available, then the data on [Exhibit D](#), page 14, is extraneous. If you eliminate the data, does it alter your thesis, and if so how?

**Senator Hardy:**

I do not have that data.

I doubt anybody is neutral on this subject. The proponents and opponents all have good rationales for what they are talking about and where they are coming from. What people have said they want is jobs, particularly full-time jobs with benefits. That is one of the reasons the ACA came into place. Many people are working not for the job but for the health insurance benefits. With the ACA passing, many people breathed a sigh of relief and said, "Hallelujah, I have health insurance or the prospect of health insurance in January 2014."

We have addressed the health care issue people were concerned about when they signed petitions before the 2004 and 2006 elections. It is interesting that we castigate the Legislature for not doing anything, yet we have been given the opportunity through the Legislature to do something today. It is probably wise that the Legislature does something in a forward-thinking way.

With the implementation of the ACA on January 1, 2014, employers will pay the double penalty for a minimum of 3 years before it can be undone. This resolution must pass in the 2013 and 2015 Legislative Sessions. Then it will go to a vote of the people in 2016 after the implementation and effects of the ACA have been realized. At the very least, S.J.R. 2 must be passed this Session in order to have a timely chance of correcting this problem after the ACA is enacted and to provide relief for businesses. That is what this vote is about.

If the federal minimum wage is increased from \$7.25 an hour to \$9, as proposed, that is a 24 percent raise. You cannot give a raise to the entry-level job worker without giving a commensurate raise to the people above that. Looking at the economy as it is right now, giving in essence the entry-level job a 24 percent raise and giving everyone a raise up to 24 percent, you put a challenge to the Country's economic growth. This Country would be hard

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pressed to come up with businesses that could afford to give a 24 percent raise to all their employees, particularly in Nevada.

**Chair Spearman:**

I declare the hearing on S.J.R. 2 closed. The business of the Senate Committee on Legislative Operations and Elections is now concluded at 10:36 a.m.

RESPECTFULLY SUBMITTED:

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Mary Moak,  
Committee Secretary

APPROVED BY:

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Senator Pat Spearman, Chair

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

<b><u>EXHIBITS</u></b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A	1		Agenda
	B	4		Attendance Roster
S.J.R. 2	C	1	Senator Joseph P. Hardy	S.J.R. 2 Introduction
S.J.R. 2	D	15	Senator Joseph P. Hardy	S.J.R. 2 Minimum Wage Presentation
S.J.R. 2	E	3	Senator Joseph P. Hardy	The Minority Youth Unemployment Act
S.J.R. 2	F	1	Warren B. Hardy II	AJR 2 Testimony for NvRA
S.J.R. 2	G	6	Tray Abney	<i>The Impact of State Employment Policies on Job Growth</i>
S.J.R. 2	H	3	Janine Hansen	Retail Apocalypse: Why Are Major Retail Chains All Over America Collapsing?
S.J.R. 2	I	1	Danny L. Thompson	Proposed Amendment
S.J.R. 2	J	1	Al Martinez	Prepared Statement
S.J.R. 2	K	1	Stacey Shinn	Several Reasons PLAN Opposes SJR 2