

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

**Seventy-Seventh Session
March 19, 2013**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Pat Spearman at 8:03 a.m. on Tuesday, March 19, 2013, in Room 2144 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 Justin C. Jones, Senatorial District No. 9
Senator David R. Parks, Senatorial District No. 7
Senator Tick Segerblom, Senatorial District No. 3
Assemblywoman Lucy Flores, Assembly District No. 28

STAFF MEMBERS PRESENT:

Carol M. Stonefield, Policy Analyst
Mary Moak, Committee Secretary

OTHERS PRESENT:

Richard Perkins
Jim DeGraffenreid, Secretary, Nevada Republican Party
Juanita Clark, Charleston Neighborhood Preservation
Janine Hansen, Nevada Families for Freedom
Lynn Chapman, Independent American Party
Mary Porter

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Carol Howell

Caren Cafferata-Jenkins, Executive Director, Commission on Ethics

Cadence Matijevich, Assistant City Manager, Office of the City Manager, City of
Reno

Scott F. Gilles, Deputy for Elections, Office of the Secretary of State

Judith Miller

Aaron Katz

Jackie Muth, Lieutenant, Commander, Office of Professional Responsibility,
Department of Public Safety

Ronald P. Dreher, Peace Officers Research Association of Nevada

Chair Spearman:

I will call this session of the Senate Committee on Legislative Operations and Elections to order. We are going to hear Senate Joint Resolution (S.J.R.) 8.

SENATE JOINT RESOLUTION 8: Proposes to amend the Nevada Constitution to revise provisions relating to the State Legislature. (BDR C-626)

Senator Tick Segerblom (Senatorial District No. 3):

I have prepared a presentation ([Exhibit C](#)). Of all the bills to be heard this Session, S.J.R. 8 is one of the most important for the long-term future of Nevada and the Nevada Legislature. With term limits, the Nevada Legislature has become increasingly unimportant and unless we do something, like an annual session, we are going to relegate ourselves to a permanent second-class status. That is something we do not want to do.

Assembly Concurrent Resolution No. 12 of the 76th Session directed the Legislative Commission to conduct the interim study, *Structure and Operations of the Nevada Legislature*, to determine whether annual sessions would be worthwhile. The interim committee, which I chaired, held hearings, visited Oregon's Legislature, investigated and looked at other states for a model. The committee was not able to reach a conclusion as to the best way to go. Senate Joint Resolution 8 represents my ideas based on the interim study. We can change any of these ideas; the length of sessions, compensation, all the moving parts can be changed; but what concepts would you consider if we go to an annual sessions model?

Senate Joint Resolution 8 provides for annual sessions. Currently, regular Legislative Sessions are 120 days. We do not work weekends, early in session

we do not meet on Fridays, and when we get to the middle or toward the end of session, our staff is incredibly busy—but we keep charging ahead because we have to get finished in the 120 days.

I have taken the 120 days and divided it. In odd-numbered years, we would have 90 legislative days, and in the even-numbered years, we would have 30 legislative days. These days would not be consecutive calendar days, but work days. In the even-numbered years, we could meet for 2 weeks, take a break and let everyone catch their breath, then come back and complete the session. The staff gets overwhelmed in this building, and if we could take a break, that would be good.

Because of the way our budget cycle works, we cannot shorten the 120-day period. The Economic Forum forecast report is due May 1, with the final budget processing to follow. The way the current system works, we would not be able to take a break in May and need to continue the session until June 1.

First, if we shorten the number of days we work, we would want to keep the Legislative Session to 120 days. The bill does not increase the number of days we actually serve. By splitting the session into two sessions, we can better organize our time and still be serving the 120 days we currently do.

Second, pursuant to the Nevada Constitution, the Legislature can only meet in Carson City. I do not feel that is appropriate given 75 percent of the Legislators live in Las Vegas. I do not want the Legislature to move to Las Vegas but to be able to hold a session there, vote there and let the people of southern Nevada see what we do. This simply removes that prohibition from the Constitution; it is not meant to move the capital. The capital would always be in Carson City. We could, on occasion, have a week of session in Las Vegas, let people see us and realize how hard we work.

Our constituents have no clue what we do and who we are. We do more work in 120 days than other politicians do in their 4-year terms. No other politician is going 7 a.m. to 7 p.m. every day for 120 days. We should pat ourselves on the back, and we do not have to be embarrassed to tell people what we do.

The third issue is our compensation. We are paid 60 days out of the 120-day session. For 120 days, we are full time, and the rest of our term is at least a half-time job. We attend meetings and answer constituents' concerns; if

someone has a problem, we are the ones they come to; we are the ones who contact the government agencies and make things work—and the work is only getting bigger.

An Assembly representative has 65,000 people in his or her district; our Senators have 130,000 people in their districts. That is a huge number. We are one of the smallest legislatures in the Country. Alaska is the only state that has a smaller state senate than Nevada. We have huge districts, and we have obligations to those 130,000 people to do what is right for them. The flip side is, you get what you pay for. For us to be unpaid when we are not in session is not appropriate.

I modeled the compensation sections after that of Arizona. Arizona legislators are paid \$2,000 a month whether they are in session or not. You would not be paid additionally for being on an interim committee. You would receive a \$2,000 check every month that lets you know you are appreciated by the people of Nevada. It is appropriate for us to stand up and say we value what we do and we think the public should know that we are entitled to be compensated. Las Vegas City Council members make around \$75,000; County Commissioners make \$80,000; and Clark County School Board members make more than we do.

Finally in S.J.R. 8, the Nevada Senate would have the right to approve gubernatorial appointments. I have provided documentation of other state statutes in this regard ([Exhibit D](#)). The U.S. Senate has advise and consent power for major presidential cabinet secretary appointments. We would have advise and consent power and more input. Given term limits, the Legislature's role in the government process has greatly diminished, and this would bring us back into the process, making us more relevant. The powers of the government in the Nevada Constitution are divided into three separate departments: the Legislative Branch is the first in the Constitution followed by the Executive and Judicial Branches. Since the first thing it says is the government shall form a Legislature, we should be the preeminent body. Outside of the Governor and Courts, we are in third place and moving farther behind.

Assemblywoman Lucy Flores (Assembly District No. 28):

I want to make one comment about the length of the sessions being proposed. We would not include the weekend days we are not in session, so we would have a longer time period but the same amount of legislative days. This gives us

the ability to be flexible with our calendars, the ability of staff and Legislators to be able to catch up with the immense amount of work. We will not have the pressure we have now to have everything done in the 120 days because we only come back 18 months later to start the process over again.

I have provided you with background information ([Exhibit E](#)): states that have recently changed to annual sessions, a comparison of states with biennial sessions and states with a similar population as that of Nevada.

As shown in [Exhibit E](#), page 2, Texas legislators meet 20 days longer than we do. Although they meet every 2 years, they are functioning as a full-time legislature. One Texas senator I spoke with has three district offices. This does not include the legislative staff provided while they are in session at the capital. They are able to function in and out of session despite only meeting once every other year. The only legislatures staffed as they are include California, New York and Pennsylvania. I know California and New York are full-time legislatures, but I am not sure about Pennsylvania.

If we had those resources in Nevada, we would not be presenting this annual session bill. We do not have any resources whatsoever. Nevada functions more like our biennial counterparts that have less than half the population we have. It is not an appropriate or effective way to run the State.

[Exhibit E](#), page 3, provides a comparison of states that have a similar population as Nevada, how the legislators function and their salaries. All of these states have annual sessions.

I have also provided you with the interim committee's survey of Nevada Legislators ([Exhibit F](#)); background information compiled by the National Conference of State Legislatures ([Exhibit G](#)); and information on the various financial support structures that exist for legislators in other states ([Exhibit H](#)).

Senator Segerblom:

During our interim, in a survey of the Nevada Legislators, [Exhibit F](#), 14 percent of us said 90 percent of our time was spent on legislative business; 30 percent said 79 percent; and 40 percent said between 50 percent to 70 percent. Eighty-two percent of us said over 50 percent of our time was spent performing legislative duties after the Legislative Session. If this is not a full-time job, it is a very big-time job. To be compensated zero, to have zero money for staff,

zero money for our cars, zero money for a telephone, is inappropriate. Looking at the number of people we each represent, it is one of the highest legislator-constituent ratios in the Country. New Hampshire has 450 assembly representatives for 2 million people; Nevada has 40.

Our job is overwhelming. It is time for us to acknowledge that, go out and be proud of it and explain that to the public. Given all this, we should be treated like city council members and county commissioners. We are an important legislative body, an elected body, elected representatives in the State of Nevada, and we should be proud of that.

Assemblywoman Flores:

Our constituents will ask why are we expanding government; we do not need a bigger government. This is not about an expanded government. This is about an efficient government that can respond to the needs of the people. We have all experienced a situation where a bill is passed with some sort of issue. No matter what issue, you cannot do a single thing about it for 18 months, until the next session. That is a problem for the State. This is not a State where we ride horses to our capital, deal with business for a few days, then go back home. It is not 1889 anymore. This is a grown-up State, and we need to have a grown-up government. It needs to be an environment where we can actually deal with our issues when necessary and not every 2 years as it stands.

Senator Atkinson:

Which Western states are still operating on biennial sessions?

Assemblywoman Flores:

Nevada is the only Western state. Oregon also had biennial sessions but moved to annual sessions in 2012. Oregon started the process several years ago. The only states with biennial sessions are located in the Midwest: Montana, North Dakota and Texas.

Senator Atkinson:

I am a member of the Council of State Governments-*WEST*, and annual sessions are a topic of conversation. Legislatures from other States do not understand why Nevada is still operating on a 2-year cycle.

I do not think our constituents understand the need for an annual session. They think it is an effort to pad our pockets, which is absurd and insulting to me.

Most of our day jobs pay us more than what we are earning here, and we are at those jobs a little less time.

With term limits, we need to take advantage of the people we are electing. People are electing us to do a job, and we are doing our business every other year. If people would look at it that way, I think it sheds a better light on it. We should not be elected to perform every other year. Folks will say we do a lot in the interim, but the fact is, this is our business and this is how we get business done. We talk in the interim, but this is where we do it.

I just wanted to offer my support. I know this is a very tough subject for us. I wanted to get some things on the record as someone who participates in the Council of State Governments-*WEST*, where we meet with our counterparts and talk about some of these issues.

Senator Cegavske:

Instead of having an office, we have a Constituent Services Unit, the Legislative Counsel Bureau staff and Research Division. The staff does an excellent job and has been able to help my constituents through the years. We have staff to assist our constituents when we are not in session. We should have 1 year be a policy session and the other year be a fiscal session. This would be viable if we removed the Legislative Commission and the Interim Finance Committee (IFC). When these two Committees were put in place, they took away the rights of the 63 Legislators. You have two Committees—as powerful as Legislators—making decisions, switching money, making policy, and the 63 Legislators are not. Are you contemplating removing these two Committees?

Seldom do my constituents want to meet in person; they are willing to take assistance over the phone or have the Constituent Services Unit help them. Not having an office staff has not been an issue for me. When surveys were completed and constituents were asked to pay the Legislators more money, could you at least pay us for the 120 days we are here? We all saw that go down in flames; the people said absolutely not. I agree the days you work are the days to which you should be compensated. That has been something we have been talking about for years.

There are parts of S.J.R. 8 I agree with and parts I have concerns about. We start omitting people who can run for office when we do different things, when we have different requirements. We have good people who want to run for

office but because of the job, they have to survive conflicts. With the Legislature's schedule, they are not able to serve. Is there any move to not have outside employment, or would this bill still allow you to work outside of your Legislator position?

Senator Segerblom:

This bill does not interfere with all else Legislators do. It is modeled after a city council member or county commissioner; most of them have separate jobs. We acknowledge the fact that you did put in a certain amount of hours and there should be some way to compensate you for that. I reviewed the compensation packages provided by the states around us, and the most appropriate model is the model from Oregon. Those legislators are in session 150 days in the odd year and 35 days in an even year, but they have a budget for year-round compensation and an office staff. Oregon just went to an annual model. Arizona representatives also get compensated \$2,000 a month year-round. Oregon and Arizona, individually, represent about the same number of people we do.

Assemblywoman Flores:

Regarding Senator Cegavske's comments on removing the Legislative Commission and the IFC, they are created statutorily and/or by joint standing rules. This bill is addressing the constitutional provisions. Changing the status of the Legislative Commission and IFC would have to be contemplated separately from S.J.R. 8.

Salary is also created by statute. At the very least, we need to remove the language that states we are not to exceed 60 days during any regular session. That is in the Constitution, so even if we wanted to change our pay, we would still be constitutionally limited to getting paid for 60 days, regardless of how long our sessions are or on an annual basis. I feel very strongly that this needs to be taken out of the Constitution.

Senator Cegavske:

That is why I was asking if you had contemplated or had any conversations about removing the Commission or IFC. The people were resoundingly saying no, we are only going to pay you for 60 days, and then we pass bills to increase the per diem, which were done statutorily, to help offset some of the costs. I think the phone bill allotment is the only expense that has been raised.

Senator Segerblom:

Assuming S.J.R. 8 is passed during the 2013 and 2015 Legislative Sessions, it then must be ratified by voters in the 2016 general election. It has been a long period of time since it was last on the ballot. It would be incumbent for all of us to go out there and really explain, get the business community behind this, what we do and why we deserve this. This is not a giveaway or a freebie. This is long overdue. It is part of Nevada maturing and becoming the important State that we are. We are a popular State. We have a lot of issues, and you just cannot deal with it. You mentioned the IFC. I do not want to disparage our leadership, but a handful of people make huge decisions on our behalf and in our name.

Senator Cegavske:

I agree. That has been hanging over our head for quite a while. That is going to be challenged by several people. We have not yet had it challenged.

A lot of things are going on in this bill. We could simplify and not deal with all of these items at once. Do you want to scale it down and just deal with the change to an annual session? With the school districts' requests being voted down, I am hesitant. As a small State in this economic situation, the compensation portion would make it tough to pass. I do believe everyone should be paid for the days they are here. I am sorry the people did not think that needed to be done.

I do not know if Legislators, elected officials or lawyers have the worst reputation. It is about perceptions, and that is unfortunate. We have constituents who are satisfied with the help we give them. We are able, even as citizen Legislators, to bring things before this body and to have discussions that affect citizens.

Senator Segerblom:

I am sure it is lawyers.

I have brought this bill to start the discussion. Everyone should have his or her input. If you do not want to have salary be a part of S.J.R. 8 or another part of the bill, that is fine. But it is important for us to at least talk about the way we are compensated. We all have 130,000 constituents; if we were paid \$2,000 a month, \$48,000 for 2 years, that is less than 50 cents for each one of our constituents during a 2-year period. That is not a huge amount of money.

Senator Manendo:

Sixteen years ago when the 120-day Session was put on the general election for consideration, my concern was that it was consecutive days. For representatives like us, who do a lot of walking and talking to constituents, I do not think many expected us or our staff to be working 120 straight days. When you look at the number of days we are actually here, it is not 120, but 80-some days. It is reasonable to spread that out, so I appreciate that part of the bill.

In the early 1990s, the legislative body used to hold hearings at Cashman Field in Las Vegas, and the whole Committee would attend. Bringing government to the most populous place in our State, which is southern Nevada, and casting votes are steps in the right direction to growing up. I too do not want to see the capital moved from Carson City. I am a traditionalist when it comes to that.

When people think about their government, they think of us. Especially as an Assembly representative, you are the closest to government as anybody. Because you are out there every 2 years, it is grassroots campaigning. We are more visible than anybody. We all get phone calls from folks about a broken streetlight or graffiti. The county and the public response office also get contacted but generally, constituents call us because we are the most visible. We come to mind, so we are doing duties beyond the scope of our legislative duties. That is perfectly fine because we want to be proactive, make our community better and be responsive to our constituents, regardless of the issue. Senator Cegavske is right; the Constituent Services Unit is wonderful. We did not have that 18 years ago. We did not have a Las Vegas office to speak of.

I am concerned because we have Legislators who turn off their legislative email when we are not in session. I take offense to that. You are elected to the job, and you only want to do the job for 120 days so you shut it off because you do not want to be seen. Is it because you are not being paid or is it because you do not want to be bothered? For those of my colleagues, God bless them all, you should not do that. You should take the job seriously through the entire term. I do not know if compensation would make Legislators more proactive to respond to their constituents. I hope that would lead them to that direction, for those who do that.

Thank you for bringing this legislation to us and talking about how we want to move Nevada forward. We have grown up, we are 3 million people, 2 million people in Clark County alone. I would like to see where we are going

to go with this. It will be interesting to see what the voters feel, if something goes on the ballot.

Senator Segerblom:

The interim committee was not able to reach a conclusion about what we wanted to do. An interim study commission bill, to do a 2-year study on annual sessions, is being presented. An alternative would be to form a commission and also present S.J.R. 8, so the two can dovetail. A constitutional amendment is a 5-year process. This bill would not take effect until 2017, and the first annual session would be in 2018. We are 5 years down the road, even if this passes.

Senator Settelmeyer:

Is the budget cycle going to change from biennial to annual? California has such legislation and U. S. Senator Harry Reid has proposed the federal budget to be biennial.

Senator Segerblom:

We would stay with a 2-year budget. During the even-year session, we would tally up to see how we are doing. For the past 6 years we have had special sessions because the budget projections were off what we thought they would be. The reality is you cannot really budget for 2 years. You can make projections, but you need to review, see how we are doing and if you have to make changes, then make changes. Some states have annual budgets, but I would prefer not to be limited constitutionally. If the numbers we projected in June are holding, if we have more revenue, we can do more things; if we have less, we tighten up our belts. There could be one big issue that the Governor puts on the agenda for Legislators to consider during that session as well as some smaller issue.

Assemblywoman Flores:

Oregon, despite the fact that the state has gone to an annual session, is still budgeting on the biennial basis. As was noted, the reason we have the Legislative Commission and IFC is because we have to move pots of money around, and things come up. If we were having an annual session, those types of fixes, changes and things that need to be done would be contemplated by the entire body as opposed to a smaller committee of people. Nevada has had a special session every year since 2000. The only year we did not was last year. Many people thought that we should have been called into a special session, but the Legislature did not have the ability to do so. We do now, approved by

the people. The population believes we should be able to call ourselves into a special session, which is indicative of the changing attitude of our State in terms of how our citizens see government. We have had some form of annual session for the last 10 years.

Senator Settlemeyer:

With the ability to call ourselves into a special session, would we have the ability to put something on the ballot quicker? The 5-year time frame would no longer apply. Can we have a special session and then have another session to solidify the idea, bring it forward and speed up the process?

Assemblywoman Flores:

This is the process to amend the Constitution. I understand that is what Oregon legislators did so the people would get used to seeing them meet annually. The Oregon legislators called themselves into special session every year until folks voted for annual sessions, then they were constitutionally okay.

Senator Segerblom:

I do not think this would be allowed. In order to amend the Constitution, it requires a new Legislature to approve the bill twice. You could not have an even-numbered year and an odd-numbered year Legislative Session approve a constitutional amendment, then go right to the ballot.

Senator Settlemeyer:

As we deal with many issues involving campaign finance, it would bother me to be in session and raise money at the same time. It would be very problematic for me to approach someone stating I could use some funds to help run my campaign; however, in 2 days I have to vote on your bill.

Senator Segerblom:

If you cannot raise money and vote against them, you should not be in politics. The reality is we would have to change our 30-day, cooling-off period. You would not be able to do that in even years, given the primary is in June. We could not raise funds while the Legislature is in session, but if you had a primary, you would have to raise funds that spring.

Assemblywoman Flores:

We are one of four states in the Country that have biennial sessions. The 46 states left in the Union have figured out a way to raise money annually. We

would have to deal with, talk about and see what would work best for our State. There are plenty of examples and models to help us decide the best way to address campaigning and raising of money in the even years.

Chair Spearman:

I will speak as the newest member of the Legislature on this dais. I was taken aback when I realized how much money it was going to cost me to be a Legislator. I have to maintain two households. Senator Cegavske brought up that people may not want to meet you at your office. Everywhere I go, I pass out business cards. I have had people show up at the post office box I maintain thinking that was an office. When people call and want to meet you, you have to meet them in public because there is no place private you can go to talk about personal and private things.

Last fall, I had constituents who wanted to meet with me to talk about the possibility of losing their home. I had to meet them at Denny's at noon. We were back in a booth while the two people were trying to hold it together emotionally, and I was trying to understand what they were saying.

Within the last 10 days, I had a family member who was stalked. People have our addresses, so they know how to get in touch with us. I have a real concern for my family. I do not want to meet people at my home. I think about Gabby Giffords. I have had people who are opposed to anything to do with amending, changing or considering gun legislation. Some of the emails I have received border on threats.

I am holding a town hall meeting in a couple of weeks, and we had to find a cost-effective way to do that. It is costing me \$60 an hour, which is not being paid by the Legislature.

When the housing crisis started in the fall of 2007 and home prices started to drop, the Legislature had already met. We were unable to do anything until 2009. By then, Nevada was leading the Nation in foreclosures with no way to do anything about it. It was economically devastating for business. To Assemblywoman Flores' point, say we pass a law that we think is a really good bill; if it has unintended consequences, businesses have to deal with the results until we are back in session.

To Senator Settelmeyer's point about raising money, one of the things candidates have to do with the monies they raise is to make sure we are available for things like town hall meetings. We do not have a telephone allowance; we get \$60 for stamps for 2 years. If our constituents do not have email, you have to budget for that. Constituents do not understand what the cost really is. In austere times, we have to make choices. We have to consider how grown up we really are and how vastly different we are, even from 2000.

I represent about 129,000 Nevadans. For me to meet all of them, even conservatively, I would have to meet at least 350 a day. My sister helps me down south. She works cheap—mostly for free—to answer the phones and help keep my calendar.

When we stop and look at all of this, it is not a matter of raising the salary. I doubt anyone would be content to work 40 hours and get paid for 20 or work a month and be satisfied with a 2-week paycheck. That does not even mention the extra time we work outside of session.

I am retired and a pastor. Before I came to Carson City, I was spending 40 to 50 hours a week on legislative business, trying to stay in touch with my constituents. As Senator Manendo mentioned, some of us go out and walk and really want to be in contact with the people we represent. We really want to hear what they have to say. To do that effectively, we need to consider this and start the conversation.

Assemblywoman Flores:

Be careful with those business cards. I handed all mine out and had to buy my own.

I agree with everything you have said. I hope this is the year we pass this bill. We start the process this year, we do it again next Session, and then ultimately, the people vote on it. We need to move forward; we need to pass it. We have come to that moment in time where we have to say this is the kind of State we want, this includes an effective Legislature, a representative Legislature and a Legislature responsive to the people.

Richard Perkins:

I support S.J.R. 8. This has been an interesting debate for many sessions. I have had the opportunity to live through most of the history you have been talking about.

In the mid-1990s, like many members of the Legislature, I believed annual sessions were not a good idea for many of the same concerns raised today. Can we preserve this as a citizen's Legislature if there is a session every year? Back then I was in opposition to annual sessions, but my mind is different today for that same argument. You already have a full-time Legislature in part-time clothing. We should call it what it is. Special sessions are the norm instead of the exception anymore. Dozens of interim committees are meeting year round. We have an Interim Finance Committee and a Legislative Commission that handle a number of legislative pieces of business in between regular sessions. Senate Joint Resolution 8 is the best way to preserve a citizen's Legislature. I do not know if the numbers in the bill are the right numbers to conduct the business for our State. I will leave those numbers up to you.

My testimony, Madam Chair, is that you already have annual sessions. The conservative view is, generally, let us not have the Legislature meet very often because they can only tax us when they are in session. That has been the debate over many years. Recently, I have seen the conservative view evolve to meeting every year to properly manage the fiscal affairs of our State. This is a stark reminder of why we can no longer project 2 years of our budget. We just cannot do it. Nevada's fiscal management is very challenging to us. You have been generally successful at keeping the special sessions I spoke of short, but they could go on for 5, 10 or 20 days, and that could be harmful to someone's employment.

Senator Settlemeyer spoke about the voters' wishes when this resolution was heard in 2009. This issue was last voted on in 1998. This proposal would not go on the ballot until 2016, and I would suggest that we have a totally different electorate than we did in 1998. The State has probably doubled in size, and all those citizens make more demands on our government. Whatever the voters' wishes, they get to have that voiced again. If you put it on the ballot, they can turn you down. The voters' wishes will continue to be honored. We have a lot of interim committees. From my view, we could actually have fewer. They tend to be added to the list and never get taken off, but that is a decision for you to make.

One of my degrees is in political science. One of the things I truly appreciate about this Country and this State is the system of government we have. When I went through government class in grade school, middle school and high school, we talked about the three coequal branches of government. This Legislature is not an equal branch of government in our State constitutional scheme. I cannot tell you if it ever was. When you are limited to 120 days, every other year, there is no way you can compete with the Executive Branch to govern this State. I have great respect for Governor Brian Sandoval and believe he is doing a great job. But you never know what Governor this Legislature is going to have to interact with. That the Legislative Branch is the branch closest to the people is a concept you have all spoken about today. You are the branch closest to the people, you are the people's voice and you are limited to meeting 120 days every other year. Do your constituents actually have as much voice in their government as you would want them to have? That limits their access to government as well.

For those of you who have served on the money committees, I am sure you get frustrated as I did. You pass a budget and give direction to agencies, and they do not always follow those directions. The biggest reason, in my view, is agency personnel will not see you for a year and a half. Half the time you will have forgotten what you suggested they do—and maybe a third of you will not even return. So for agencies, the downside for not following legislative intent or legislative direction is really not significant. The Interim Finance Committee can cover that to some degree, but only if a budgetary, pragmatic change comes before them. It is difficult for you to have the government oversight you are constitutionally obligated to have. I do not disagree with many of the comments you have made. The money committees meet several days before the official start of session, so this is not a 120-day session. There is additional time Legislators have to take away from their jobs to dedicate toward crafting the budget; it is a misnomer to suggest this is a 120-day Legislature.

Crisis besides budgetary ones have to wait for a session to start, whether it is something that just affects one community or the entire State. It is disheartening to tell a constituent I am sorry, we have no authority to do that until next Session. I think that will change significantly if the Legislature met every year. I am not advocating going back to the 169-day session that did not finish until July 7, 1997. As much as you are dedicated to this cause, no one here wants to dedicate his or her entire summer to this effort. I do not think that would be a good thing either.

Jim DeGraffenreid (Nevada Republican Party):

The Nevada Republican Party is concerned about the effect of expanding government by adding more days to the Legislative Session. Our platform is clear that we believe government is at a sufficient size already. That is particularly true now that the Legislature has the ability to call itself into session as needed. We believe that is a sufficient way to cover anything that needs to happen as opposed to locking in additional days when they may or may not be necessary. I have further concerns about the costs of multiplying Legislators' compensation several times.

The Nevada Republican Party platform states we believe that the State has a spending problem rather than a revenue problem. We believe it is important for us to allocate our scarce resources in the most important areas, like education, not necessarily things like this bill. It does not appear that Legislator pay is an important need for funds. In every election, we have multiple candidates who vie for available positions. Candidates spend thousands, sometimes tens of thousands of dollars, to get elected to positions. It appears individuals are willing to serve under the system we have.

I thank you and all of your colleagues for being willing to serve under this citizen Legislature. We know that it is a difficult thing for people to do. I appreciate Senator Manendo's comments on being available to constituents, even in the interim. I know most of you do, and we appreciate that but do not believe the additional cost in this bill will help us get any further down the road.

Senator Cegavske:

I understand your concerns about the additional days and the cost. If the session was a 60-60 day split, totaling 120 days; 60 days each year; 1 year for taking care of policy issues and 1 year for fiscal, what do you think the response would be? And with the caveat that there would be fewer interim committees as well?

Mr. DeGraffenreid:

A plan of that type would be much more appropriate. There are issues, as mentioned, that should not go 2 years without attention. As long as the number of days are the same and legislative time is not added, that would be an acceptable situation.

Senator Settlemeyer:

I discussed the concept of limiting the number of bill draft requests as a way to speed up the process with the sponsor of the bill. We often have bills that are similar. Would that be relevant?

Mr. DeGraffenreid:

That would be appropriate. Last Session, a bill was introduced to limit bill draft requests, and the party testified in favor of that concept. A shorter session makes sense to concentrate on the things most important.

Juanita Clark (Charleston Neighborhood Preservation):

I have prepared testimony for the Committee ([Exhibit I](#)). No must be your vote regarding S.J.R. 8. Amending our Constitution for the Legislature to be in session more days, on a variable schedule, every year, at self-determined locations, cramps our traditional citizens' Legislature. These elected officials leave their current businesses or employment to serve their constituents for a specific number of days on specific days at a specific location. Senate Joint Resolution 8 increases the Legislators' pay with no cap and can be increased anytime by the Legislature. The above is not the full list of insults to the freedoms of we the people, Nevadans.

I appreciated the opportunity to experience what is on the minds of some of our elected Legislators who request our vote for the privilege of representing us at the State level. We do appreciate this bill coming forth so that it can be discussed. It is obvious that many Legislators are thinking and contemplating this and concerned about being a professional rather than a citizen Legislature. The best way to be closer to the people is to be a citizen Legislator.

Janine Hansen (Nevada Families for Freedom):

I have been attending Legislative Sessions since 1971. I appreciate the discussion on S.J.R. 8. Many of us are volunteers, donating our time, and we do not expect you to work for free. You should be paid for the days you work, that is equitable. I concur with Senator Settlemeyer about reducing the numbers of bills. There are currently 1,098 bill draft requests, which is unnecessary. I agree with Senator Cegavske that we should be meeting 60 days every year so there would not be a need for the Legislative Commission and Interim Finance Committee. Utah, a state on the comparison list of states of similar size to Nevada, has a legislature that meets 45 days a year.

Senate Joint Resolution 8 increases the total number of days of session by 45. This concerns me because more time in session will be more bills and costs.

Another concern is moving the deliberations. I am not opposed to holding hearings in Clark County, but I am concerned with moving the whole Legislature there, at any time or for any reason. Section 1, subsection 3 states: "may designate another place in this State to hold all or any portion of the session." This will make it difficult for people who are volunteers to attend committee meetings and for others to follow what is going on in the Legislature when it is moving from here to there.

I am concerned about the section on pay raises. We are not opposed to pay raises. You need to be paid for what you do. We are opposed to the monthly salary instead of being paid for the days you work. That will make people dependent and perpetuates a noncitizen Legislature.

We are also concerned about the new legislative power not in our Constitution, which is to provide for the approval of appointments of the Executive Branch.

We feel there are some good answers, but we do not feel the good answers are necessarily in this bill. We would appreciate you voting no and considering alternatives. Just because we only meet every other year does not mean that there is not some wisdom in limiting the size and scope of government.

Lynn Chapman (Independent American Party):

I also have the same concerns. Moving the session around the State would be crazy. Texas, California and Alaska are bigger than we are; do they do these types of things? I agree with having committee meetings in Clark County, but not to have large sessions all over the State.

How did the Legislators respond to citizens in the past? They always tried to respond to the citizens. I heard that we would not be able to now; I do not believe that is true. As long as Legislators keep their emails active, it would be helpful.

A lot of time is wasted on multiple bills for one subject matter and that could be tightened up a bit.

Senator Atkinson:

This question is to anyone opposed to S.J.R 8. Why would you be opposed to letting the fine citizens of this State decide this issue on the 2016 ballot?

You are opposed to pay raises. We have tried to make it clear that we are asking to be paid for the days we serve.

We have a lot of bills that are unnecessary, partly because we meet every other year. Bill sponsors know they may not get another opportunity for 2 years or maybe not at all because they may not return to the Legislature. Annual sessions may cut down on the number of bills.

I have always had faith in the voters because they elected me. I have faith they will make the right choices for the State and for themselves. They have also been educated in making decisions. We are not trying to make the decision, we are trying to send this bill to the voters to make the decision.

Mary Porter:

The proposed constitutional amendment deals with four very different things. As a voter, I might be convinced we should have some adjustments, but I do not think the Legislature should be approving the Governor's appointments. You have put too much in this bill to consider and vote on at one time. I suggest you break it down and make the argument that way.

The fiscal note bothers me. I do not know the cost of holding the hearings in other areas.

Senator Atkinson:

Some of the costs would be cut down since most of the southern Legislators have to fly to Carson City. I get it: we need to work on some sections.

Carol Howell:

This is the second session I have spent volunteering and following the bills in committees. I currently follow six different committee bills. I know what kind of job you are doing and the pressures you are under. You receive bills you have not had the chance to look at. Most people who do not come here to see that do not appreciate the job you are doing.

Many of you have been here term after term. For some reason you keep coming back, and it is not just for the salary. I opposed several issues in this bill. I do not oppose it going to a vote, but there are too many other issues.

Assemblywoman Flores:

Thank you very much and please pass S.J.R. 8.

Chair Spearman:

We will close the hearing on S.J.R. 8.

Chair Spearman:

We will now open the hearing on Senate Bill (S.B.) 228.

SENATE BILL 228: Revises provisions relating to public servants. (BDR 23-445)

Caren Cafferata-Jenkins (Executive Director, Commission on Ethics):

Senate Bill 228 was proposed and passed through the Senate and this Committee last Session but died in the Assembly Committee. A number of these matters have already been discussed, publicly vetted and approved by this body. The Commission on Ethics has made 14 additional requests for Senator David R. Parks to include in this year's bill.

One of the most important issues is our ability to not go through the Governor's Office or a Legislator to amend *Nevada Revised Statutes* (NRS) 281A. The Ethics Commission is not a wholly Executive Branch entity but a partial Legislative Branch entity. We do not have a champion and must rely on the Governor or the Legislature for revisions to our chapters in NRS. This is inappropriate. Senator Parks allowed us to ask for two bill draft requests directly of the Legislative Counsel Bureau because the Commission on Ethics is independent of those branches.

Senator David R. Parks (Senatorial District No. 7):

Senate Bill 228 makes changes to the provisions relating to public officers and employees, ethics in government and the State's ethics law. This bill was previously heard by this Committee in S.B. No. 391 of the 76th Session, and passed out of your Committee as well as the Senate. The bill was heard in the Assembly Committee on Legislation Operations and Elections and failed. Hence, we are back again this Session to pursue this legislation. Senate Bill 228 is a new and improved form.

Senate Bill 228 is a detailed, omnibus bill that has two substantial components: expanding the 1-year, cooling-off provisions to local governments and clarifying the ability of public officers and employees to contract with government agencies. The remaining changes in S.B. 228 are a result of requests for opinions brought to the Commission's attention. These are items to close loopholes and make the law more easily understood.

Ms. Cafferata-Jenkins:

I have provided a chart highlighting the sections and changes to NRS 281A ([Exhibit J](#)). A major change made by S.B. 228 is the expansion of the cooling-off provisions, known as the 1-year, cooling-off period, after leaving state or government service. It has previously applied only to former public officers and employees and is being expanded to apply to local governments.

We have input from local governments, particularly the City of Reno, stating the concept of having a cooling-off period for local government public officers is commendable and offering to support the concept. The concern is a city council person with regulatory authority over all businesses in the city would therefore be prohibited from working for a business in that political subdivision for 1 year. This may be an unfair and unintended consequence of the expansion. The Commission on Ethics would be open to an amendment that narrows the application so that bodies with wide-sweeping authority—if not involved in the direct approval of business licenses and what have you—would not trigger the cooling-off provision.

Along with the expansion of the 1-year, cooling-off period is the ability for the Commission on Ethics to provide a form of relief from the strict application of the law with a general application statute. Circumstances where taking a job in a position that might have been under the regulation of a public officer or employee sometimes does not violate the public trust and is not antithetical to the public policy behind the cooling-off period. Those circumstances should be the exception rather than the rule. The Commission on Ethics would evaluate the circumstances of requests to determine whether the public policy is appropriate. We have relief available for state officers and employees that is used on a regular basis. For example, employees of the State Gaming Control Board are prohibited from accepting a position with any gaming entity for a year. In the event they want to be change persons in a casino, rather than in the regulatory area, that might be something where the Commission would allow relief from the strict application.

Sections 11 through 13, 42, and 49 through 55 of S.B. 228 clarify the limitation by which a public officer or employee can contract with the government agency he or she serves. There are prohibitions and restrictions from whom local governments can purchase, and those are in different sections of the law. In NRS 281A, we only have jurisdiction over the public officers and employees themselves. Those individuals have had some confusion as to what a sole source of supply might be and to whom the sole source of supply exception might apply. Clarification to the contract statute is imperative, because there has been a great deal of confusion in that regard.

We have determined we no longer want to pursue some requested language in S.B. 228. These are outlined in the proposed amendments to S.B. 228 where the Commission on Ethics is withdrawing its request for amendments ([Exhibit K](#)).

Chair Spearman:

Would you clarify page 19, section 39, subsection 5?

Ms. Cafferata-Jenkins:

We call that the boss of your boss provision. The Commission on Ethics has received queries about a public employee, like a teacher, who might want to run for the school board. If that person wins the seat, the school board supervises the superintendent, who supervises the principal, who supervises the teacher. In essence, you would become the boss of your boss if you sat on the school board. The Commission on Ethics opinions have been that you need to choose; you can always run, but once you have won, you must choose whether you want to serve on the school board or retain your employment as a teacher.

The same circumstance happens with regard to hospital boards if a doctor or health care employee runs for the hospital board in the community. The hospital board supervises the hospital CEO, who supervises the employee. So you cannot be the boss of your boss or the boss of yourself.

The requested language is to prohibit the concurrent holding of a public office and holding a separate public office or employment in which you exercise control over yourself, your employer or supervisor.

Senator Cegavske:

With all the amendments, it is hard to understand what you are asking for in S.B. 228. Are you going to walk us through the amendments or are you waiting for us to go through them ourselves? Does it totally mirror S.B. No. 391 of the 76th Session or did you have some add-ons?

Ms. Cafferata-Jenkins:

There are 14 changes to S.B. No. 391 of the 76th Session. I had planned on going over each amendment if time will allow.

Chair Spearman:

Please meet with Senator Cegavske to address any questions she might have.

As for the term “public office”: how much control over the employee or the supervisor is contemplated in this language?

Ms. Cafferata-Jenkins:

There is not a definition in the application of this prohibition about the amount of control. When you are on a school board, you are the ultimate policy maker and you are negotiating contracts with unions. The determination was that if one of the public policies to be served required one to abstain from voting so often that one would not be a reasonable participant in the representative process, one held a concurrent conflicting role. If the choice was to serve on the school board or be an employee of the district, the conflict would be eliminated. It is reinforcing what already exists in Commission opinion—giving the public officers and employees a visible place to see from where that came. After the fact, it is reinforcing existing law.

Chair Spearman:

In reference to nepotism, what degree of separation would that include before you say the people in question are far enough removed so whatever influence they might have is mitigated?

Ms. Cafferata-Jenkins:

Nevada Revised Statute 281A.420, subsection 8 points to a commitment in private capacity to the interests of others, and that contemplates a third degree of affinity. If you are the center of the circle, three degrees would be myself, my parents and grandparents; my children, my grandchildren; my brothers and sisters, my nieces and nephews; my aunts, uncles and cousins.

The highlighted sections in [Exhibit J](#) are affected by the proposed amendments, [Exhibit K](#).

Cadence Matijevich (Assistant City Manager, Office of the City Manager, City of Reno):

We are here in support of S.B. 228. We are concerned about the practical application of a couple of sections.

In section 6, the definition of household appears to conflict with a definition in section 9. In section 6, household speaks to sharing of expenses, and in section 9, household indicates a person would just need to reside in the household. A question about those two may cause an interruption issue.

We believe the interests to protect third parties, in the event of a violation, is a good goal on page 4, section 11 subsection 3. What factors or considerations are to be applied when doing so? We would seek further clarification as the bill is silent in this area.

Page 9, section 22 amends the bill to expand many of the provisions into local governments. We are not opposed to being included and appreciate the clarification it brings. With the broadening of the provisions, we will need to provide training with our local agencies to develop policies and protocols. With that, we request to move the effective date of the bill to October 1 to allow adequate time to train our public officials and employees so there is not an inadvertent violation of the new provisions upon adoption.

Page 23, section 40, subsection 5, line 16 provides prohibitions against what types of employment an employee of the agency, not just public officers, may obtain after leaving office. Perhaps someone who worked in our business license office leaves the employment of the City through no direct action of his or her own. Having been involved in administering business licenses, his or her area of discretion is broad in the job, but he or she is prohibited from potentially obtaining employment with a business in the City. I understand the intent of this but think the language is a bit broad.

Also in section 40, subsection 5, paragraph (b) refers to audits, decisions and investigations. Members of our police department and other departments are involved in investigations all the time. Would a police officer having been involved in an investigation for real estate fraud then be prohibited from selling

his or her house in the year after leaving employment? I do not believe the bill was intended to be that broad, but it could be interpreted as so.

My final area of concern is on page 29, section 42, subsection 5, which refers to the purchase of goods or services posing a two-thirds vote requirement on sole source contracts where a public officer may be voting or making a decision. We do not see a two-thirds requirement in NRS 332, which is the public purchasing chapter. We suggest if this is to be adopted, there be a reference in this chapter. Someone looking in the public purchasing provisions may not think to also check in the ethics chapter for voting requirements on certain types of contracts.

Ms. Cafferata-Jenkins:

All of the City of Reno's comments are well taken and supported by the Commission.

Scott Gilles (Deputy for Elections, Office of the Secretary of State):

The Office of the Secretary of State supports S.B. 228, particularly the provisions that relate to NRS 281 concerning financial disclosure statement filings. All financial disclosure statements are filed with the Office of the Secretary of State. They used to be filed with the Commission on Ethics. Provisions in sections 2 through 10 of the bill will clarify the terms used in describing disclosure requirements, particularly what household means and what a business entity entails. My staff are repeatedly asked these questions by individuals filing reports. This should ease some of the burden on our staff during heavy traffic filing periods and will help the filers as well.

I talked and agree with Director Cafferata-Jenkins about section 6, that the provision stating sharing expense for a household is unnecessary, and we would be happy with the removal of that qualification.

I would like to make clear that a change in section 14 relates to the definition of a candidate. My understanding is it relates only to the definition of a candidate in NRS 281. The changes in section 14 remove the qualification, not the definition of candidate, and the definition only applies to financial disclosure statement filing sections. I assume this means that the definition only applies to NRS 281 and not to the definition of candidate in Title 24 of the NRS. Title 24 includes the election laws enforced by the Office of the Secretary of State,

particularly how "candidate" is used in NRS 293 and NRS 294A, the campaign finance chapter.

Ms. Cafferata-Jenkins:

In [Exhibit J](#), the left column states the pages and sections of the changes in S.B. 228. Also provided are reasons for the changes and what the changes are. Sections 1 through 17 were added by the bill drafters in the last Legislative Session. I am not an opponent or a proponent of those. I believe they were requested by another agency. Section 18 forward are requests from the Commission on Ethics.

[Exhibit K](#) details the amendments we have submitted to the NRS 281A changes in [Exhibit J](#).

Senator Cegavske:

Confusion reigns. The local government had an issue with subsection 5, but am I to understand you want the removal of section 40 in its entirety?

Ms. Cafferata-Jenkins:

No. Section 40 is intact. We need to amend the reference to 281A.440 to be referenced to 281A.440, subsection 1, which is the confidential request for advisory opinion material. Section 41 is to be returned to the original language of the statute.

Senator Cegavske:

In addressing page 23, section 40, subsection 5, where local government had concerns about the police officer and needed it clarified, is that something to which you have yet made changes?

Ms. Cafferata-Jenkins:

The local government prohibitions would be specific, not to someone who works in a business license department. However, someone who works in a business license department who has conducted an investigation of a licensee would be prohibited from taking employment from that licensee if he or she was participating in an investigation. The scenario we want to avoid as an abrogation of the public trust is the possibility you get offered a job to drop the investigation. The same thing with law enforcement. If you have been involved in an audit or an investigation of a particular business, it is that business you are

prohibited from taking work from or being employed in that same general occupation.

Senator Cegavske:

Local government was asking for clarification of intent. Are you going to add new language?

Ms. Cafferata-Jenkins:

Our intent would be to add some sort of narrowing that would clarify what the prohibitions are for those sitting on broad bodies, such as city councils.

Judith Miller:

I object to page 8 of the bill, section 19, which is a revision to NRS 281A. Change in the language defined the commitment in a private capacity. It used to say something about a commitment in a private capacity to others, and the change now speaks only about natural persons or person, "person" not being defined. This change would mean that a commitment to a nonprofit would no longer be considered a matter for disclosure or for abstention, even though the Commission on Ethics has made decisions that required disclosure and even abstentions where a public officer has a commitment to a nonprofit. I can think of a number of occasions where the commitment to a nonprofit would not be in the public interest and would be an ethical violation. This dangerous precedent does not protect the public.

I request the language about a commitment in the private capacity to others, in this case, a nonprofit, be continued.

Ms. Cafferata-Jenkins:

The word person is defined in NRS 0.039 as including a natural person. So not having it otherwise defined in NRS 281A would include natural persons as well.

Ms. Miller:

I withdraw my objections.

Aaron Katz:

I am here today to introduce to the Committee that Incline Village is an out-of-control, rogue, local element of government. It seems to operate as an independent sovereign like no other government I have ever seen any place. These particular ethical provisions apply equally to Incline Village General

Improvement District (IVGID) as they do to other local governments throughout the State.

I have submitted a written statement ([Exhibit L](#)) which goes into detail I am not going to reiterate and points out five sections of the proposed legislation I have a problem with—sections 28, 30, 41, 45 and 47. If I understand correctly, sections 28, 41 and 45 have been withdrawn. Three of my five issues have been addressed. That leaves sections 30 and 47. Section 30 refers to a commitment to the interest of others in a household, then adds language about a class of persons who do not contribute to the expenses of the household. I object to those persons being excluded from the class of interested persons.

My objection with section 47 is it seems to eliminate an enforcement tool the Office of the Attorney General has to deter unethical conduct that is not in the interest of the public. I do not understand why this is being proposed to be deleted. I want the Attorney General to have all the tools available to ensure we have ethics in government.

Two issues which are not addressed by this bill need to be. I have outlined that our Board of Trustees commits unethical conduct every single day of the year and is getting away with it ([Exhibit M](#)). It is open, it is outrageous and nobody will do anything about it. If these acts were committed by an individual employee, he or she would be the subject of the Commission on Ethics. But because Board Members are making policy, an exemption has been expressed, and I do not know where it comes from. I want public officers who vote for unethical policies to face the same responsibilities as any other public employee. So we need an expansion.

Chair Spearman:

You have made a broad statement against a government body. In order to include your statement as part of the testimony, we need to have evidence.

Mr. Katz:

I am happy to provide evidence. I need a clarification of exactly what you want me to produce.

Chair Spearman:

You have just said the Board commits violations every day.

Mr. Katz:

Ethical violations every day.

Chair Spearman:

So whatever those are that you have that would be using

Mr. Katz:

Let me give you one example, if I may.

Senator Cegavske:

May I have clarification as to what body you are talking about?

Mr. Katz:

I am talking about the Incline Village General Improvement District. General improvement districts are regulated by NRS 318. It is a local element of government.

Senator Cegavske:

Thank you for the clarification. You said a board of trustees; it could have been my homeowners' association (HOA), and we would have some issues.

Mr. Katz:

The Board acts like an HOA. The other portion of the proposed legislation that needs to be addressed deals with the suppression of public records and public documents. The IVGID has created a buffer who is a public records officer. All requests go through the buffer who tends to have a personal pecuniary interest to protect, and there is no way it can constitute an ethical violation. Many times this public records officer is doing nothing other than being a spokesperson for the individual employee who has—and is suppressing—the record. You are unable to make a complaint of an ethical violation against the buffer. When we have a third party, who may not have a pecuniary interest to protect yet is suppressing records, there needs to be an expansion of the provisions for the protection of the public.

[Exhibit M](#) provides documentation of public officers who are regularly committing unethical acts in their capacity as a policy-making body. The public officers create a policy that allows all the employees to commit the unethical act. When anybody complains, they suppress the records that will provide minimal evidence to the Commission on Ethics. Ultimately, they point the finger,

saying my employer told me it was okay, or I have an attorney who has given a legal opinion that I can do this because it is a policy. That runs contrary to protecting the public, which is what I am here to urge.

Senator Parks:

Thank you for giving S.B. 228 a hearing. I realize it is very complicated. The next step would be to try and get everything into one document, with supporting documents, so you can see the recommendations.

Ms. Cafferata-Jenkins:

I invite the Committee as well as the public to submit specific amendments or requests for changes to my office, if possible today. The Commission on Ethics, along with the Legislative Subcommittee, is meeting tomorrow.

As an agency director, I do not have the authority to act without my Commission. In order to maintain the Open Meeting Law and other transparency issues that we are dedicated to, I will bring any suggestions to the subcommittee.

Chair Spearman:

I will close the hearing for S.B. 228. The committee will have a work session deliberating S.B. 203 and S.B. 16.

SENATE BILL 203: Requires legislative lobbyists to file quarterly reports concerning lobbying activities under certain circumstances. (BDR 17-26)

SENATE BILL 16: Authorizes the issuance of administrative subpoenas by state law enforcement officers. (BDR 23-334)

Carol M. Stonefield (Policy Analyst):

As a member of the staff of the Legislative Counsel Bureau (LCB), I will neither advocate nor oppose the bills under consideration today.

The first bill before the Committee is S.B. 203 brought by Senator Justin C. Jones and heard by the Committee on March 12 ([Exhibit N](#)).

Senator Settlemeyer:

We discussed during testimony the concept of how to make it easier for individual lobbyists who expend no money. If an individual spent zero dollars

during Session, they would not be responsible to file reports in the interim. This may pacify those individuals who are afraid of having to fill out so many reports in the off time and then have fines and fees assessed to them.

Senator Cegavske:

I agree with Senator Settelmeyer's statement.

Senator Atkinson:

I do not have a problem with the proposal. We should have talked with Senator Jones before today. I am not sure if Senator Settelmeyer has spoken with Senator Jones or if Senator Jones agrees with the proposal. Being a chair for so long, I am not a proponent of putting an amendment on a sponsor's bill without discussing it with him or her.

Senator Settelmeyer:

If there is an issue, we can do a do pass right now, and I can propose a floor amendment, if necessary.

To explain to Senator Jones, there was discussion during the testimony of individuals who do not spend any money during session and felt it was unduly burdensome to have to fill out reports during the interim. Would you agree to the concept of an amendment stating that individuals who filed a zero amount the entire Legislative Session would not have to fill out these reports in the interim?

Senator Jones:

Absolutely.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 203.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Chair Spearman:

We will have a work session on S.B. 16.

Ms. Stonefield:

Senate Bill 16 was brought to the Committee on behalf of the Department of Public Safety. It was heard by the Committee on February 14 ([Exhibit O](#)).

Senator Cegavske:

Have the proponents of S.B. 16 reviewed and approved the amendments?

Jackie Muth, Lieutenant (Commander, Office of Professional Responsibility, Department of Public Safety):

I have reviewed both amendments. The Department of Public Safety is in support of the amendment proposed by Chair Spearman.

Regarding the secondary amendment submitted by Peace Officers Research Association, we do have some concerns. I am not aware if giving administrative subpoena power to a nongovernmental entity is the proper thing to do or if it is supported by caselaw. The Department of Public Safety would oppose the amendment at this time.

If S.B. 16 passes, we would recommend a verbiage change from the actual submission. Regarding language in section 1, subsection 1, paragraph (a), "violated or is about to violate," we would like to remove the "or is about to violate" since that is not relative. The Department of Public Safety would believe the violation had to have occurred.

Chair Spearman:

You are advocating to strike "about to violate"?

Lt. Muth:

That is correct.

Senator Settlemeyer:

I feel the amendments you put forth are clarifying. I would like to ask the Department of Public Safety representative if she feels the words were clarifying? Do you feel the amendments help the bill?

Lt. Muth:

Yes, we believe the amendments are supportive of the bill, and the Department of Public Safety supports the amendments.

Senator Settelmeyer:

I appreciate the amendments. I agree with the concept of providing both sides the ability to utilize the process. I am not sure how that works. This goes against caselaw, from my experience in law school. The concept of the amendment seems troubling. I am worried about the second amendment.

Ronald P. Dreher (Peace Officers Research Association of Nevada):

In our amendment for S.B. 16, we added one thing the policy analyst overlooked and the Committee needs to know. In [Exhibit O](#), page 5, we included NRS 289.060 and 289.080 in the Legislative Counsel's Digest content. In section 1, we added that chapters 284 and 289 of NRS would also be amended.

As I read your amendment, the confidentiality section would prohibit us from receiving information when we are preparing for an appeal. *Nevada Revised Statutes* 289.057, 289.060 and 289.080 currently provide us the information from the case.

Chair Spearman:

I asked the Legal Division of the Legislative Counsel Bureau for a definitive answer. The question we discussed was the difference between NRS 284 and NRS 289, and whether there was a commingling of the two statutes at any point in the investigation. The LCB Legal Division responded that this investigation is specific. You are asking whether the investigation is specific to a peace officer, and this is different from the investigation provided for in NRS 284, which pertains only to state employees. The first is an administrative investigation, and if you would comport with the amendments that you have asked for, it would be changing the nature of an internal administrative investigation to an adversarial proceeding. This is basically NRS 289.

I asked if State agencies had the right for subpoenas for internal investigations. *Nevada Revised Statute* 396.323 authorizes the Board of Regents, the Chancellor of the University System and the presidents of all the branches within the System to issue subpoenas in instances involving disciplinary hearings of members of the System. *Nevada Revised Statute* 218E.185 authorizes the Legislative Commission and by delegation its subcommittees to issue subpoenas for documents when the Legislative Commission or subcommittee is discharging a duty imposed or power conferred by Title 17.

Concerns raised with respect to how this would impact a peace officer have changed with the request by Lt. Muth to remove the language "about to violate." What we are talking about is strictly an administrative action and not an adversarial or punitive one.

Mr. Dreher:

The citation given here by its very nature ... unfortunately, any hearings for an administrative investigation are in fact adversarial or could be. It is a fact-finding mission. The role of a representative in hearings is to rebut statements. When you commingle NRS 284, which is an administrative notice and identical in nature to NRS 289.060, the notice itself, this is our concern.

The Department of Public Safety already has the ability to request administrative subpoenas through its attorneys or the courts. We are concerned with an administrator, who does not have legal experience, requesting subpoenas.

State peace officers are covered under NRS 289, and if you grant administrative provisions in that without quid pro quo, like our amendments states, then you are moving an issue of a peace officer out of where we have the peace officers' bill of rights in NRS 289 to NRS 284.

How can you keep something confidential in that forum when we have NRS 289 which already allows us the right to have all that information if we appeal the hearing? Our problem is with giving subpoena power to the administrator who does not have legal experience.

Chair Spearman:

With respect to the first amendment, this is already covered in NRS 284, which states the penalties for disclosing the information in an administrative investigation; the provisions are identical to that.

I will state once again, what this is doing and based on the opinion I received from our Research and Legal Divisions of LCB, the precedent has been set with the University System as well as the Legislative Commission.

Mr. Dreher:

The fact that it is confidential is one thing. It does not remove our ability when we are appealing a hearing because that is a confidential setting until it reaches the hearing officer level. When it moves from the actual investigation to a

hearing officer level, the State then has a public hearing and it is no longer confidential. As long as the investigation information is accessible under NRS 289.057 for law enforcement, we would not have a problem with the amendment. We do not want our representatives or our officers receiving discipline if they have access to the records, which they can get under NRS 289.057. We want it confidential.

Chair Spearman:

We are talking about two different statutes, NRS 284 and NRS 289.

Senator Settelmeyer:

I make a motion to amend do pass with amendment No. 1, as proposed by the Chair, and also the amendment requested by Department of Public Safety with the deletion of the words "or is about to violate."

SENATOR SETTELMEYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 16 WITH AMENDMENT NO. 1 AND BY DELETING "OR IS ABOUT TO VIOLATE" REQUESTED BY DEPARTMENT OF PUBLIC SAFETY.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Spearman:

The business for the Committee on Legislative Operations and Elections has been completed at 10:47 a.m.

RESPECTFULLY SUBMITTED:

Mary Moak,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	5		Attendance Roster
S.J.R. 8	C	12	Senator Tick Segerblom	Senate Joint Resolution 8 Presentation
S.J.R. 8	D	4	Senator Tick Segerblom	Senate Approval of Governor-Appointed Agency Administrators
S.J.R. 8	E	3	Assemblywoman Lucy Flores	Comparison of Nevada with Other State Legislatures
S.J.R. 8	F	1	Assemblywoman Lucy Flores	Survey of Nevada Legislators
S.J.R. 8	G	5	Assemblywoman Lucy Flores	NCSL 2012 State Legislator Compensation and Per Diem Table
S.J.R. 8	H	6	Assemblywoman Lucy Flores	2012 State Legislator Compensation During Session
S.J.R. 8	I	1	Juanita Clark	Prepared Testimony
S.B. 228	J	8	Commission on Ethics	Changes to NRS 281A
S.B. 228	K	5	Commission on Ethics	Proposed Amendments
S.B. 228	L	13	Aaron Katz	Prepared Testimony
S.B. 228	M	7	Aaron Katz	IVGID's Unethical Conduct
S.B. 203	N	1	Carol M. Stonefield	Work Session Document
S.B. 16	O	6	Carol M. Stonefield	Work Session Document