

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

**Seventy-Seventh Session  
March 28, 2013**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Pat Spearman at 8:03 a.m. on Thursday, March 28, 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 Joyce Woodhouse, Senatorial District No. 5

**STAFF MEMBERS PRESENT:**

Carol M. Stonefield, Policy Analyst  
Melissa Mundy, Counsel  
Janette Dean, Intern to Assemblyman James Ohrenschall  
Mary Moak, Committee Secretary

**OTHERS PRESENT:**

Tom Wellman  
Terry Hickman  
Lynn Chapman, Nevada Families  
Patrick T. Sanderson, Nevada Alliance for Retired Americans  
Elisa Cafferata, President and CEO, Nevada Advocates for Planned Parenthood  
Affiliates

Cassandra Rice  
Wendy Starkweather  
Janine Hansen, Independent American Party  
Larry Lomax, Registrar of Voters, Clark County  
Carolyn Howell, Nevada Legislative Affairs Committee  
Stacey Shinn, Progressive Leadership Alliance of Nevada  
Scott F. Gilles, Deputy for Elections, Office of the Secretary of State  
Alan Glover, Clerk/Recorder, Carson City  
Craig M. Stevens, Nevada State Education Association  
Caren Cafferata-Jenkins, Executive Director, Commission on Ethics  
Cadence Matijevich, Assistant City Manager, City Manager's Office, City of Reno

**Chair Spearman:**

This morning we are going to hear three bills. The first is Senate Bill (S.B.) 298.

**SENATE BILL 298**: Requires the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs to conduct a study concerning property tax assistance for senior citizens. (BDR S-735)

**Senator Joyce Woodhouse (Senatorial District No. 5):**

I am here to introduce S.B. 298 for your consideration. I have provided a prepared statement for the Committee ([Exhibit C](#)).

**Senator Justin C. Jones (Senatorial District No. 9):**

I believe the Legislature needs to reconsider the action taken in 2011 to eliminate the Seniors Citizens Property Tax Assistance Program. During the 2012 campaign, many seniors from my district expressed concerns they were living on fixed incomes; many seniors live on social security or retirement accounts that were decimated during the recession, and they were struggling to make ends meet. Some were forced to choose between paying their property taxes and paying for medication or other life sustaining necessities.

Those who had received property tax assistance were abruptly informed in June 2011 that the program had been discontinued due to the budget shortfalls. This is not a program available to every senior. Seniors had to qualify according to a formula. When the program was in effect, the eligible income level was adjusted each year for inflation.

It is ironic as the recession lingered in Nevada and household resources diminished, especially for those on fixed incomes, to eliminate one program that would have provided some assistance. That was shortsighted, because helping seniors stay in their homes is more economical than many of the alternatives. We owe it to our seniors to review the impact of eliminating the Senior Citizens Property Tax Assistance Program, and I urge the Committee to support S.B. 298.

**Tom Wellman:**

I speak in support of S.B. 298. It is an appropriate use of money. Many seniors need this help to maintain their lifestyles. Anything that can be done to assist them would be greatly appreciated.

**Terry Hickman:**

I feel like I have crossed over because now I am a retiree. Being a former President of the Nevada State Education Association and a public school counselor for 26 years, I know how important it is for seniors, of which I am now one, to have a stable income as well as a stable tax for their homes.

We want to encourage people to stay in their homes and get the assistance they need. I understand these are difficult times, and making cuts is difficult. Now things are turning, things are changing and we need to welcome seniors in Nevada, not displace them. We need to help them be the great members of the community of which they want to be. I stand in support of S.B. 298.

**Lynn Chapman (Nevada Families):**

I support this bill. It is important for seniors and veterans to have the help they need, when they need it. My father lives in California and is 86 years young. I challenge any of you to keep up with him because he is very active. California has Proposition 13. If there were no Proposition 13, my father would have lost his house years ago.

We never really own our own homes. If we do not pay the taxes on our homes every year, then the government comes in and steals our homes from us. I am in favor of helping people who have worked hard all their lives, bought homes and thought they owned them. I am very concerned about that.

**Patrick T. Sanderson (Nevada Alliance for Retired Americans):**

I speak in favor of S.B. 298. I know that it is only a study. I understand what hard times we are in because I am in these halls every day begging for money.

Allowing seniors to live in their homes saves the State a tremendous amount of money. If you put them in a place of care, the costs go up gigantically. If seniors get help in their homes, they can live in dignity and do much better.

It was stated around 16,000 people were assisted by the Senior Citizens Property Tax Assistance Program. If you multiply the number of people assisted by \$200,000 a year, which is the cost of assisted living, that is a tremendous amount of money to save. As a representative of the Alliance, I hope you will use common sense and move this bill forward.

**Chair Spearman:**

I will close the hearing on S.B. 298.

SENATOR MANENDO MOVED TO DO PASS S.B. 298.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Senator Manendo:**

We will open the hearing on Senate Joint Resolution (S.J.R.) 11.

**SENATE JOINT RESOLUTION 11:** Urges Congress to propose an amendment to the United States Constitution to allow regulation of independent political expenditures by corporations. (BDR R-1047)

**Senator Pat Spearman (Senatorial District No. 1):**

I am here to introduce S.J.R. 11. I will read from a prepared statement, which I have provided to the Committee ([Exhibit D](#)). Additional documents I have provided to support S.J.R. 11 are: House of Representatives Joint Resolution (H.J.R.) 29 of the 113th Congress ([Exhibit E](#)); H.J.R. 21 of the 113th Congress ([Exhibit F](#)); a Hart Research Free Speech for People Survey ([Exhibit G](#)); 2012 Associated Press poll ([Exhibit H](#)); 2012 Main Street Alliance poll

([Exhibit I](#)); and a list of states which have passed or have amendment resolutions pending ([Exhibit J](#)).

**Janette Dean (Intern to Assemblyman James Ohrenschall):**

Citizens of Nevada are taking part in many activities to show support for a constitutional amendment. In addition to 11 states passing resolutions, 22 U.S. attorneys general, including Nevada's Attorney General Catherine Cortez Masto, also supported Montana's challenge to the U.S. Supreme Court's *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010) decision along with Republican U.S. Senator John McCain of Arizona. Unfortunately, their suit was struck down.

U.S. Representative Dina Titus of Nevada had cosponsored House of Representatives Resolution (H.R.) 1275 of the 111th Congress with 26 other representatives in April 2010 to formally express disapproval of the *Citizens United* decision when it was first announced. Representative Titus said it allows the interest of corporations, both foreign and domestic, to supercede the voices of citizens in the democratic process.

Last July, 1,087 Nevada residents' signatures from the MoveOn.org petition were delivered to U.S. Senator Harry Reid, U.S. Senator Dean Heller, Representative Mark Amodei and Representative Shelley Berkley, urging them to support national legislation that would overturn the *Citizens United* decision. Also delivered were signatures to Governor Brian Sandoval, State Senator Ben Kieckhefer and State Assemblyman Peter Livermore. Additional national legislation on this matter are S.J.R. 29 of the 112th Congress and H.J.R. 90 of the 112th Congress.

Beyond the national petition, concerned citizens of Carson City—Republicans, Democrats, business owners and Occupy Carson City members—petitioned the Carson City Board of Supervisors at the Nevada capital to pass a city resolution in support of the constitutional amendment. Signatures totaled 1,879; 215 from Carson City and 1,664 from throughout the State.

There is a brewing interest in the State that will continue, and this constitutional amendment resolution is a wise decision to protect our democracy ([Exhibit K](#)).

Those opposed to this constitutional amendment point out that unions are allowed to spend as well. That cannot compare to what is happening with

corporate spending. The Public Interest Research Group of the U.S. shows that less than 1 percent of direct spending in the 2012 elections was by unions. Less than 10 percent of super PAC union spending was part of the spending cycle. Unions decided to get involved with super PACs because they had to go up against corporate influence. Unions are not spending as much as corporations, and they do not represent the same type of profit interests.

**Elisa Cafferata (President and CEO, Nevada Advocates for Planned Parenthood Affiliates):**

The Nevada Advocates for Planned Parenthood Affiliates support this resolution and believe the states should regulate independent political expenditures.

**Cassandra Rice:**

I support this amendment. I feel the influence of money in the political system is huge. It is not working for our regular citizens, and corruption arises when money influences our politicians. I want to get rid of that as much as possible. The income inequality and the power that the big corporations have over what is happening in our Country is huge.

I would like to return to how our founding fathers made a more representative government in the Constitution. Ninety-two percent of Americans support the universal background check on guns, and that is not even done yet.

**Wendy Starkweather:**

I am not a political person, but I do believe it is the right of every citizen to speak up and express concerns. The concern is that money influences politics in a far greater manner than it used to, and even the way it used to was particularly disturbing.

I speak in support of the advocacy that has already been stated. Chair Spearman expressed all the points I would support with the emphasis on the phrase we the people. The Constitution does not say we the corporation. I believe this resolution would bring back the emphasis of the people's ability to represent themselves. I speak in favor of that.

**Ms. Rice:**

If corporations have the same rights as people, are they subjected to the death penalty when they have done wrong, as is a person?

**Senator Manendo:**

We have an amendment. Senator Spearman, would you take us through it?

**Senator Spearman:**

The constitutional amendment ([Exhibit L](#)) is asking for a reversal of the *Citizens United* decision and to go back to the way things were according to statute and other precedents. The bill is clarifying the language.

**Senator Cegavske:**

In the testimony, you referred to *Citizens United* and unions. The word “union” was not expressed in the initial bill or in the amendment. You are taking out independent and corporations; does that include unions?

**Senator Spearman:**

The word union was not expressed in the initial bill. Ms. Dean stated that there was less than 1 percent of spending for independent unions and less than 10 percent for super PACs.

This bill is not intended to discriminate against any organizations that wish to contribute to the political process. This amendment is designed to afford people an opportunity to understand who is giving the money; how much is being given; and where it is being given. The *Citizens United* decision allowed the creation of legal entities to funnel money and also allowed corporations to spend ungodly amounts.

In my opinion, more than \$1 billion was spent in the last presidential election cycle. I was appalled. How many schools could be built, how many senior citizens could be provided medicine, how many students would be educated, how many roads could be built?

Senate Joint Resolution 11 is designed to put the process back in the hands of ordinary people who can contribute \$1, \$5 \$10, \$20, but certainly do not have \$10 million to spend on a political campaign.

**Senator Cegavske:**

I see you have the verbiage in the amendment.

**Ms. Dean:**

The 11 states that have passed resolutions, the 22 Attorneys General who have supported Montana's fight, along with the 300 cities that have passed resolutions have always focused on corporate spending. Union spending is not a concern, and that opposition argument has not been a strong one. We need to stop organizations that are for-profit corporations. It has not been a precedent to limit union spending, as unions are different types of organizations.

We want to mirror the national movement's language. We have added some of our own language to further the intention.

**Janine Hansen (Independent America Party):**

On page 2, line 27 of [Exhibit L](#), in the section where the State of Nevada calls upon Congress, we have left out the word unions. It would be appropriate if this goes forward to include unions.

I would like to share some thoughts about the *Citizens United* case. The original attempt to suppress free speech was by John Adams, when the Alien and Sedition Acts were passed. Editors of newspapers and others were jailed because they opposed the policies of the government. These were overridden when Thomas Jefferson became President of the United States.

The purpose of the Bill of Rights is to protect the rights of the minority, not just the majority. An important part of that is the free right of association. We can join together—political parties, corporations, associations—and unite our efforts in obtaining a common goal. We are of little influence when we try to do it as individual citizens without some kind of association to help.

The U.S. Supreme Court held in *Citizens United* that it was unconstitutional to ban free speech through limitation of independent communications by corporations, associations and unions. Supreme Court Justice Anthony M. Kennedy's opinion found the prohibition of all expenditures by corporations and unions violated the First Amendment protection of free speech. The majority wrote if the First Amendment has any force, it prohibits Congress from fining or jailing citizens or associations for simply engaging in political free speech. The First Amendment and the Court do not distinguish between media and other corporations. These restrictions would allow Congress to suppress political speech in newspapers, books, television and blogs. The majority argued the First Amendment protects associations of individuals in addition to individual



speakers. The First Amendment does not allow prohibition of speech based on the identity of speaker. There would be many who would choose to silence people who disagreed with them.

Spending money is essential to disseminating speech as established in the Supreme Court decision in *Buckley v. Valeo*, 424 U.S. 1 (1976). Limiting a corporation's ability to spend money is unconstitutional because it limits the ability of its members to associate effectively to speak on political issues. They long recognized money equals free speech and without it, we do not have any.

The First Amendment purposefully keeps government from interfering in the marketplace of ideas and rationing speech. It is not up to the Legislature or the courts to create a sense of fairness by restricting speech. You cannot say because someone has a lot of money that his or her right to speech should be restricted because somebody else does not have the equal amount of money. That is no reason for restricting speech. The courts said there is no such thing as too much speech. The public has the right to have access to all information to determine the reliability and importance of that information.

Laws that restrict campaign contributions and speech suppress dissent. They harm challengers, especially minority parties like the Independent American Party and our candidates. These restrictions help the powers that be, incumbents, to maintain control and continue to limit our speech because of the laws that place limits on what we can raise. Those limits expose our people to harassment, the loss of jobs and other issues.

I encourage you to remember as the U.S. Supreme Court has said that there is no such thing as too much free speech. We do not want to end up going in the direction of the Alien and Sedition Acts of 1798, when some speech is allowed and some speech is not.

It is important in a free nation that we have free access to all information. The only way we can is through an association of citizens, like a union, corporation or association which has the opportunity to participate in the political process. One person giving \$10 does not have the force of a union, an association or corporation, so we have to join together.

**Senator Spearman:**

I thank Ms. Hansen for eruditely defining our argument. I appreciate the statistics and the facts she quoted. I think they speak in favor of the bill.

When you say one person contributing \$10 does not have the same force as someone who contributes \$2 million, that is exactly what the bill is designed to do. It is designed to give the power back to the person who can only contribute \$10. The bill provides more transparency. It forces people, organizations and corporations to disclose who is giving and how much.

The arguments Ms. Hansen presented speak to the passage of this resolution. When we talk about protecting minorities, that is exactly what the bill does. Individuals can not muster the same type of political clout. The bill does not prohibit association or organization because people still have the right to do that. But what it does say, as individuals, even if you are collectively organized, you should not have any more power than a single voice. The bill provides opportunity for minorities at the same level of experience as that of corporations.

Multinational companies are funneling money into national elections. I do not think that we, as citizens of the United States, want people in other parts of the world influencing our elections. This bill speaks to that; it provides a big vehicle for transparency not available to the public in the last election cycle.

**Ms. Dean:**

I need to correct for the record. Union spending was not 9.5 percent as reported by the Public Research Interest Group of the U.S. as part of super PAC spending, it was 5.5 percent. The statistics in the last election showed unions spent less than 1 percent on direct outside spending and as part of super PACs, spent less than 6 percent on outside spending. In addition to foreign influence in the elections, we have also seen that judicial elections throughout states and regions are being affected by corporate spending.

**Senator Spearman:**

When we speak about corporations, on page 2, lines 27 to 28 of [Exhibit L](#), it states "or other artificial entities created by a state."

A memorable line from a popular movie was "it's all about the Benjamins." I think it is wrong when elections ignore issues, ignore the voice of the people,

ignore the pressing concerns of local communities and make it all about the Benjamins. This bill is designed to rebut that statement. It is not all about the Benjamins.

**Senator Manendo:**

We will close the hearing on S.J.R. 11 and open the hearing on S.B. 325.

**SENATE BILL 325**: Revises provisions relating to elections. (BDR 24-953)

**Senator Pat Spearman (Senatorial District No. 1):**

I am here to introduce S.B. 325 for your consideration. Senate Bill 325 could easily be called the plain language ballot act. I have provided the Committee with a prepared statement ([Exhibit M](#)).

How many of you have contemplated the language of a ballot question and asked yourself what does that mean? Voting is hard work. It requires we understand complicated public policy questions. Senate Bill 325 proposes to help you with those questions.

The statutes require proposed constitutional amendments and statewide ballot questions include a condensation, explanation, arguments for and against, and a fiscal note. Senate Bill 325 would add to those requirements a digest that must include a clear and concise summary of existing laws directly related to the proposal. The digest must also include a summary of how the proposal would affect existing laws. The bill would also apply similar requirements to questions brought by governing bodies of political subdivisions, public or quasi-public corporations or other local agencies that submit questions to the voters. These would include advisory questions as well as questions originating through an initiative or a referendum process.

Statewide ballot questions have long been required to provide condensation explanations, arguments and fiscal notes. The National Conference of State Legislatures says Nevada's ballot questions are not particularly readable. I have provided you with an article ([Exhibit N](#)) from *State Legislatures* magazine which summarizes a review of the average reading level of measures on the ballot between 1997 and 2007. The reading level of ballot questions in Nevada is at Grades 19 to 27. Nevada's ballots are at the doctoral level of comprehension. That would mean I am not qualified to vote on amendments or referendums because the ballot language is so confusing.

When confronted with a ballot question they cannot answer or understand, I suspect most voters will do one of two things; they either do not vote or vote no. Whichever way they go, the outcome of the election is affected. For any interested parties, whether a group collecting signatures on a petition or members of the Legislature, it is a shame to do all the work to get the question on the ballot only to lose it because the voters cannot understand what they are being asked to consider.

I have provided you with some examples ([Exhibit O](#)) of unclear ballot questions. I was not an English major, but I can say all that verbiage on page 1 was one sentence.

**Senator Settelmeyer:**

I appreciate the concept of the bill and would like to offer an amendment.

We had a similar situation up north. The summary did not have too many fancy words or things so verbose, but when it came to the question, "Should we go to the Nevada Legislature and seek to improve the quality of life for the Truckee Meadows?", buried on page 6 was the concept of "draining off fuel as indexed." I have problems with that type of language as well. Would you be willing to address that type of issue with S.B. 325? It is just as bad as being verbose and making it so someone cannot understand it. You can also be wordy and not be up front. I firmly believe the people have the right to raise their own taxes, but they need to know what they are voting on.

**Senator Spearman:**

Senator Settelmeyer, you are absolutely right. What this bill seeks is—I call it—say what you mean. And that goes for anything that goes on the ballot. We can understand names of people, and it is our responsibility to find out as much as we can about the candidates. When talking about ballot questions and referendums, if those who write the summaries do not say what they mean, people get lost halfway through and are not sure what is being asked. Most ballot initiatives, as I understand, are directed at eighth-grade reading level, but Nevada's ballot questions are from Grades 19 to 27. The ballots are not saying what we mean, and that is what this bill is designed to correct.

**Senator Settelmeyer:**

Would you be agreeable with the first introductory paragraph or two introductory paragraphs indicating clearly if you are seeking to increase taxes, revenue or property taxes? This often gets buried on subsequent pages.

**Senator Spearman:**

If you look at this bill in its entirety, it requires creating committees at the local level to write the condensation explanation and the arguments for and against.

Mr. Lomax has a friendly amendment to add, but you are right, the bottom line for this bill is to say what you mean.

**Senator Cegavske:**

I was told we wrote the comments at a fifth-grade level. When you proposed that it was beyond college level, I was surprised and wondered where that came from. I have not met a fifth-grade student who could understand most of the questions that are proposed.

**Senator Spearman:**

Our aspirations of doing that are laudable. By the ballot question I just read to you, [Exhibit O](#), page 1, I do not believe we achieved what was set out to do.

The questions on the ballot should be intellectually accessible to those who have low literacy skills. People may be familiar with the issues but may not be sure of what you are asking them to vote on, especially when ballot questions are written in such a way that yes means no and no means yes.

People vote yes, thinking they are voting for something—when what they are doing is voting against something; or voters want to oppose a particular piece of legislation and vote no—not understanding they are voting yes.

**Larry Lomax (Registrar of Voters, Clark County):**

I have an amendment ([Exhibit P](#)). The amendment does not change the bill or the intent. My amendment corrects an error made in 1999 when the laws were changed affecting questions.

Prior to 1999, when a governing body or board submitted a question, the entity also submitted the arguments for and against the question. This led to bias in the arguments because the same people proposing the change were submitting

the arguments. In 1999, the law was changed. The people submitting the ballot question would submit the question, explanation and the fiscal note, if there was one. The clerk would be responsible for putting together the committees and having the arguments written for and against.

My amendment corrects the language. *Nevada Revised Statutes* (NRS) 293.481 and NRS 293.482, sections that govern ballot questions and advisory questions, still states the board will present to the clerk the arguments for and against the question. That has not been true since 1999. I replaced it with language that says "the questions will be prepared in accordance with NRS 295.121 or NRS 295.217," which are the pertinent sections, one for state and county questions and the other for city questions.

**Carolyn Howell (Nevada Legislative Affairs Committee):**

I support this bill. I have been involved with putting together petitions and questions for the ballot. I too am concerned with the yes means no, no means yes issue.

One way to do that is in the fiscal note, where it says state government: yes or no; city: yes or no; we would add a resident cost: yes or no.

If we are looking at clarity and plain language, what better way of telling the citizens that they are voting for or against something than in a fiscal note where they do not have to read through the entire bill to find out their taxes are going to be raised or the city is going to buy or build something. I would like to see something in the fiscal notes.

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

We are here in support of S.B. 325. Wording and placement of instructions can help or hinder voters from successfully voting for their choices. Voters are exercising an important right as citizens. If they cannot understand how to use their voting material, they may not be successful in voting for propositions of their choice.

Voters may be inexperienced, stressed, tired, have limited English proficiency and low literacy or have reading, learning or cognitive disabilities. None of these are justification for disenfranchisement.

Research on instructions show many people act as soon as they see something that seems relevant. They do not read further to see if there are any conditions or consequences for these actions. This means we need to make sure we word ballot questions such that we can reasonably assume the voter will understand the first time and not have to reread the question. Enacting a statewide set of standards would go a long way to adding transparency and restoring citizens' confidence in the process. Senate Bill 325 would improve the process, leveling the playing field for all Nevadans.

**Ms. Chapman:**

We are in support of this bill. It is a good process, and we support the concept.

We understand the smaller counties have problems getting people to help with writing the ballot questions, but I am sure some remedy will be taken care of in this Committee.

We do a voter guide, and we have had committees try to read some of these ballot questions so we can make a recommendation on whether someone should vote for or against. Sometimes it is really difficult to figure out what they are saying and it takes us quite some time to figure it out. If we could have a concise digest for people, that would help tremendously, especially for those of us who are trying to explain the question to other people.

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

The Office of the Secretary of State supports this bill and any measure to add clarity to ballot questions. Ensuring that the voters understand what ballot questions mean and what impact they have is good policy from our perspective.

The Office of the Secretary of State is involved in the writing of the condensation, which is the actual question and the explanation for the statewide ballot questions that come by way of initiative petition or referendum. This bill would only relate to the explanation voters receive in their sample ballots and not the actual questions that appear on the ballot.

**Senator Settelmeyer:**

Is there a way to amend the bill to ensure the explanation appears everywhere?

**Mr. Gilles:**

Changes could be made to how the actual condensation or the question is written, just like any other change. But that is a little more tricky language.

**Senator Settelmeyer:**

Maybe you can talk with Senator Spearman. I think the intent is for all election processes to be clear, not just some of them.

**Ms. Hansen:**

We have participated at many levels in the ballot process, especially for ballot questions. We feel this is an excellent step toward making it easier for individual voters to make the right choices. We appreciated what Senator Settelmeyer said about making it clear if a ballot question is raising taxes or has a fiscal note, it should be obvious for people.

An issue regarding the citizens committee expressed previously was that in some communities, this bill takes away all limits. We are not opposed to that, but in some small communities there were difficulties finding enough people to participate in actually writing the ballot questions. We have heard testimony from Mr. Glover on that. That might be something to consider.

We support making the language more understandable to the voter. Our recommendations for questions on the ballot are to clarify these things for people. One of the most popular things we have done is a voter guide.

We enjoyed Senator Spearman's reading of the example of the Moapa bond proposal because it made it clear just how convoluted these things are sometimes.

**Alan Glover (Clerk/Recorder, Carson City):**

We would like to go on record as supporting Mr. Lomax's amendment. To be able to clean things up will go a long way to help.

The language on a ballot question for a bonding issue is written by the bond counsel. The reason for the language is to give them legal authority to sell the bonds. That is why it is important to have the explanation correctly written on the ballot, and the digest would help. I think this is important.



There is a difference between bond questions and other questions written for the ballot. For ballot questions by petition, as clerks we must put the language just as it was in the petition on the ballot. The language depends on the quality of the petition and the people supporting it. If they get real wordy and go on and on, there is not much we can do about it.

Referring to Senator Settelmeyer's statement, placing the digest on the ballot itself is not the proper place. The explanation belongs in the publication we do, in the newspaper and on the sample ballot. If you place the digest on the ballot, you would add hundreds of pages to an electronic or printed ballot.

**Senator Settelmeyer:**

I appreciate the concept that the bond question needs to be written in a certain legal format in order to facilitate selling the bonds. I still think in the first introductory paragraph of the digest, you can state the intent and put a more wordy discussion below that.

I am not asking for much. Within the first paragraph of an explanation, we need one simple sentence that if the question intends to raise or lower revenue, it says so. The bill should state it seeks to increase or decrease the sales taxes or property taxes, which could have an adverse effect on education if a decrease reduces the amount of funds necessary.

It is appropriate for voters to know what they are voting on in one simple sentence.

**Mr. Glover:**

I agree with you: be right up front with what this will do. We have had some petitions in Carson City that you read through again and again and then go to page 97 where a line says, by the way, we are going to remove the justice of the peace from office or something. It is really not fair to the voters.

**Senator Settelmeyer:**

My colleague is the Chair of the Committee on Transportation, and he loves the ballot question worded: a yes vote would advise the Nevada Legislature that you approve of the recommendation to protect the diesel tax from inflation, and a no vote would advise the Legislature that you do not approve of the recommendation to protect the existing diesel tax from inflation. Most voters looked at that and said—what?

**Mr. Glover:**

It is an interesting process. We have had times when we could not find people who were willing to serve on the committee to write the ballot wording. In 1999, the statute did not allow us any other option, and then it was amended. If we do not get volunteers to be on the committee, then the clerk and the district attorney write the arguments for and against.

I would like to be more proactive and find people. I am not opposed to encouraging the high school debate team to write the explanations or asking college English classes to volunteer. I am looking for people who can write well. I do not care how passionately they feel about a question, but can they present the arguments for and against in a logical manner in a couple of hundred words and not make political statements accusing the other side of all sorts of things. Those comments are left to television and radio commercials.

**Craig M. Stevens (Nevada State Education Association):**

We are neutral but support the spirit of the bill and appreciate the sponsor for bringing this forward.

The new requirements of the bill are that explanations must include a digest which must be a clear, concise summary of the existing law. There is a precedent for parties filing legal action seeking to remove questions from the ballot on the basis of incomplete or insufficient ballot explanations. There are reasons to be concerned about a requirement for any new level of detail, and such explanations may be the basis of an increased number of such legal challenges.

The determination of what constitutes a clear and concise summary of existing laws relating directly to the measure may be subject to debate and the basis for legal challenges by those opposed to any particular ballot measure.

We wanted to bring this forward to you to talk about these legal challenges. With any sort of law like this, we must be careful to not make the ballot explanations too simple or difficult to get them thrown out and not seen by the people.

**Mr. Lomax:**

I support the intent of the bill, to make things more clear to the voter. However, I do have concerns.

We need to be clear that committees are only involved in writing arguments for and against and have nothing to do with questions or the explanations or anything else. They are not going to be responsible for that language.

As for the length of the questions, this bill is talking about changing the explanation; the explanation does not appear on the ballot. The ballot just has the question. You have to be very careful at keeping that question at a reasonable length. The law already says the question is supposed to be in easily understood language and of reasonable length. Reasonable length is important to us because we do not want to have questions run on and on, especially for absentee paper ballots. That causes issues.

My concern is in the explanation. This bill says we want a clear and concise summary of the existing laws that would be changed. I do not have a problem with that, but I am very concerned about litigation. The biggest problem election departments have is that questions get hung up at the last minute in court and we cannot print ballots. Election after election I have had to submit to the Nevada Supreme Court the last date we could accept a decision so we could get the ballots printed. In every single case, litigation involving ballot questions slowed the process. One side is always trying to get a question thrown off the ballot.

In this bill, who is to decide whether the explanation or the digest is in clear and concise language and identifies all the laws to be changed? By law, we prepare and print a list of all the laws affected by any ballot questions three times in the newspaper. In some cases, one single ballot question results in three pages in the classified section of the legal language changed because of the results of that question. We are required by law to make that available at the polling place. Rarely, if ever, does anyone ask to see it.

I am open to making a clear and concise explanation available, but I am concerned this is opening up another area for litigation because there is no enforcement. Whoever supplies the question to us is going to supply all this language to us. Then it is going to be open for the courts to decide if someone wants to make an issue of it. I do not have a solution to that, but I do want to point that out.

**Senator Spearman:**

Mr. Lomax, thank you for voicing your concerns. I am willing to work with whomever might help us answer those questions. I understand the legal exposure that we might have based on past actions. There has to be a way for us to accomplish this. I am not smart enough to tell you what it is right now. I am willing to work with some smart people who can help me get there. We will entertain any information that we need to for an amendment that will allow this to pass and the spirit of the law to be accomplished.

**Senator Manendo:**

We will close the hearing on S.B. 325.

**Chair Spearman:**

I would like to open the work session.

**Carol M. Stonefield (Policy Analyst):**

Senate Bill 228 was heard in this Committee on March 19, presented by Senator David R. Parks ([Exhibit Q](#)).

Amendments to S.B. 228 have been proposed from the Commission on Ethics ([Exhibit R](#)) and the City of Reno ([Exhibit S](#)).

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

**Senator Settlemeyer:**

It is rare we get a 42-page amendment, plus other amendments. Are the two amendments in conflict with one another?

**Melissa Mundy (Counsel):**

There is a conflict between [Exhibit S](#), bill pages 22 and 23 of what the City of Reno submitted, and what was received from Ms. Cafferata-Jenkins.

**Chair Spearman:**

Please identify the conflicts.

**Ms. Mundy:**

[Exhibit R](#), page 22, lines 29 to 36, deletes existing language the City of Reno wishes to retain.

[Exhibit S](#) is proposing to delete language relating to “a local agency” from the bill page 22, lines 7 to 8 and line 36. Also bill pages 23 and 24, lines 16, 17, 21 and 23, respectively relating to wording “employee” and “employee’s.”

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

I have two suggestions to add to the Commission on Ethics’ proposed amendments. It is my understanding with these two suggestions that the City of Reno is willing to withdraw its proposal. I have not heard of any comments from other entities.

[Exhibit R](#), page 22, lines 7 and 8, I would delete “or a public officer or employee.” This would clarify our existing language. Local legislative bodies shall not represent or counsel a private person for compensation before any local agency in the county in which he or she serves. We are eliminating the prohibition from public officers or employees and only having it apply to local legislative body members.

[Exhibit R](#), page 23, lines 23 through 29, which apply to the cooling-off period, apply to only activities undertaken during the immediately preceding year, and after paragraph (a) “during the immediately preceding year” would be inserted.

These were requested by the City of Reno. The suggestions have not been vetted by the Commission on Ethics; I cannot support or oppose them. They are consistent with the intent of the policy of the Commission to not limit a long-term government employee, who has any activities in the early part of his or her public service, from working in that field for 1 year after termination. If that employee has not been involved in that area for the year preceding his or her termination from service, he or she should not be subject to the 1-year, cooling-off provisions. I do not think it is antithetical to the policy of the Commission. I would say the Commission on Ethics would accept this amendment, but I do not have the authority to do so on the Commission’s behalf.

**Cadence Matijevich (Assistant City Manager, City Manager’s Office, City of Reno):**

As Ms. Cafferata-Jenkins has indicated, we have continued to try to find compromise on this bill. If the Committee is willing to accept both of those amendments, including the one Ms. Cafferata-Jenkins indicated she cannot advocate for, then the majority of our concerns have been satisfied. Broad

language is here, and we have concerns about application to midlevel public employees who could be prohibited from gaining employment and providing for their families after they leave service, either of their own decision or through layoffs. If this Committee does look favorably upon that amendment and passes it, we would respectfully reserve the right to come before you again in 2 years if we find that it has captured more employees than practical and is having an effect on people working for local governments or accepting additional responsibilities. Unlike seeking an elected office, employees at local governments have taken on additional responsibilities not of their own choosing due to having to downsize. They have done so willingly and should be commended. They should not be placed in a position of where, because of that, they are prohibited from getting other employment to provide for their families after leaving local government.

**Senator Settlemeyer:**

Judith Miller opposed the bill because it would no longer require a nonprofit's disclosures. Have you addressed that issue?

**Ms. Cafferata-Jenkins:**

I am not certain what that testimony refers to. The Commission on Ethics has heard several requests for opinions regarding whether an affiliation with a nonprofit organization creates a commitment in a private capacity to the interest of others. A series of decisions say if you are a fiduciary to a nonprofit corporation, that relationship is significantly similar to a business relationship and should be disclosed. If you are a fiduciary, not if you are involved or a supporter, that is clearly a disclosable interest.

**Senator Settlemeyer:**

I appreciate the amendments and trying to work out some of the questions as well as resolutions. I would love to see this put together in a mock-up so I could see the amendments all together and try to figure it out.

If we are going to vote on this bill today, I will be voting no. I am concerned about the amendments being lengthy and added together. I am worried about how they conflict. It needs to be read in one document to understand.

**Senator Cegavske:**

I agree with my colleague. Last night, I read the City of Reno amendments, trying to get my hands around those, and then the Commission on Ethics' proposal.

It is overwhelming to say the least. I understand others may understand each line, each sentence and each ramification, but I would not be able to support the bill now—not until we have something more comprehensive for a side-by-side review. I am not convinced the City of Reno is really in favor of this. I think Reno still has concerns. It is too much without enough specificity.

**Chair Spearman:**

I have a nineteenth-grade education, but I am having a difficult time understanding the side by side. I think I am clear on it today, but I am not so sure after hearing Ms. Matijevich's testimony. It sounds like you are kind of, sort of, almost, but if you had your druthers, you would like to talk some more with Ms. Cafferata-Jenkins.

**Ms. Matijevich:**

It is difficult for me to say we give our full support to the bill. We have concerns about the language.

If the Committee passes the bill with the two amendments—and Ms. Cafferata-Jenkins has said she cannot say if the Commission on Ethics will support them—then we would be willing to withdraw our amendment. But until such time, we still feel strongly there are potential unintended consequences for midlevel staff, and perhaps even below, depending upon bill interpretation.

**Ms. Cafferata-Jenkins:**

This is a very complex and comprehensive measure. If the Committee will remember two things; one, a great portion of this measure was presented before this Committee last Session and passed through the Senate. This version does not contain substantive changes to the measure that everybody had the opportunity to testify about last Session. The Commission on Ethics has brought it back this Session. We were provided a very brief time to testify and explain the bill to you. When you have an enormous bill like this, having 15 seconds to go over suggested changes does not lend itself to having the Committee understand the intent of the bill.

There are four intended changes, other than cleanup, in this measure. Being a comprehensive cleanup bill makes this long.

It has four policy changes, one of which a local government may not be excited about taking on. The bill is expanding the cooling-off provisions, which currently exist for state employees and state public officers, to those in local government. A transitory provision sweeps the local governments into these cooling-off provisions. This provides that any current employee in local government, any current public officer in local government, is grandfathered in, just like State employees in 1993 who became subject to the cooling-off period.

**Senator Settlemeyer:**

Can you reference the bill number from last Session? I have all my notes.

**Ms. Cafferata-Jenkins:**

Last Session's bill was S.B. No. 391 of the 76th Session. Senator Settlemeyer, you and I have had an opportunity to speak about this. I believe you were going to go back to your caucus notes and check the reasons you opposed it because you voted against it in Committee and on the Senate Floor. There may be good reasons for that not yet expressed.

**Senator Atkinson:**

I have questions and concerns as well. Three of us were not here last Session, so if the three of us vote no because we do not know what happened last Session, the bill fails anyway.

You mentioned it was comprehensive. This is kind of difficult for me, as it was something that happened to S.B. No. 391 of the 76th Session, and this is the first I have heard of it. It appears Senator Parks brought this on your behalf, but I have not heard from him ... .

**Ms. Cafferata-Jenkins:**

I am a member of the Executive Branch of State government ... .

**Senator Atkinson:**

A lot of people are a part of the Executive Branch; they do take the time to come talk to us on bills of this magnitude as difficult as this one. I am not comfortable at this point. It may behoove you to take some time to come talk to us. I have not heard from you in 60 days, so it may help.



**Chair Spearman:**

Let me make a recommendation. As this is a comprehensive piece of legislation, I would like to see if you could get it all together, come back and let us take a look at it. Complete a mock-up, and that way there will be no questions in anyone's mind.

One of the things I like to do before we vote on a bill is to make sure it is clean when it gets to the Senate Floor, and there are no questions. If there are questions, we can answer the questions because we have already addressed them. I do not want this to leave the Committee with questions.

Senator Atkinson has stated he would like to hear more about the bill, one on one.

We will defer voting on Senate Bill 228 until another day.

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**Chair Spearman:**

We have concluded the business for the Committee on Legislative Operations and Elections today at 9:58 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	7		Attendance Roster
S.B. 298	C	6	Senator Joyce Woodhouse	Prepared Testimony
S.J.R. 11	D	7	Senator Pat Spearman	Prepared Testimony
S.J.R. 11	E	2	Senator Pat Spearman	H.J.R. 29
S.J.R. 11	F	2	Senator Pat Spearman	H.J.R. 21
S.J.R. 11	G	4	Senator Pat Spearman	Hart Research Survey
S.J.R. 11	H	1	Senator Pat Spearman	Associated Press Poll
S.J.R. 11	I	3	Senator Pat Spearman	Small Business Poll
S.J.R. 11	J	4	Senator Pat Spearman	State Resolutions in Support of Amending the Constitution
S.J.R. 11	K	107	Janette Dean	Citizens United Against The <i>Citizens United</i> Supreme Court Decision
S.J.R. 11	L	2	Senator Pat Spearman	Mock-up of Proposed Amendment 7783
S.B. 325	M	6	Senator Pat Spearman	Prepared Testimony
S.B. 325	N	1	Senator Pat Spearman	<i>State Legislatures</i> magazine article
S.B. 325	O	3	Senator Pat Spearman	Moapa General Obligation Park Bond Proposal
S.B. 325	P	7	Larry Lomax	Amendment to S.B. 325
S.B. 228	Q	2	Carol M. Stonefield	Work Session Document
S.B. 228	R	46	Commission on Ethics	Amendments for S.B. 228
S.B. 228	S	42	City of Reno	Proposed Amendment