

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

**Seventy-Eighth Session
March 26, 2015**

The Committee on Legislative Operations and Elections was called to order by Chair Lynn D. Stewart at 4:01 p.m. on Thursday, March 26, 2015, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Lynn D. Stewart, Chair
Assemblywoman Shelly M. Shelton, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Michele Fiore
Assemblyman John Moore
Assemblyman Harvey J. Munford
Assemblywoman Victoria Seaman
Assemblyman Tyrone Thompson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

Assemblyman James Ohrenschall (excused)

GUEST LEGISLATORS PRESENT:

Assemblyman David M. Gardner, Assembly District No. 9
Assemblyman Chris Edwards, Assembly District No. 19
Assemblywoman Marilyn K. Kirkpatrick, Assembly District No. 1
Assemblyman Jim Wheeler, Assembly District No. 39



Assemblywoman Irene Bustamante Adams, Assembly District No. 42
Assemblywoman Heidi Swank, Assembly District No. 16
Assemblywoman Amber Joiner, Assembly District No. 24

STAFF MEMBERS PRESENT:

Carol M. Stonefield, Committee Policy Analyst
Kevin Powers, Committee Counsel
Patricia Hartman, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Joseph P. Gloria, Registrar of Voters, Clark County
Mark Meckler, President, Convention of States Action
John Everhart, Private Citizen, Reno, Nevada
Scot Clements, representing Convention of States Action
Frank Schnorbus, representing Convention of States Action
Robert Martinez, Private Citizen, Las Vegas Nevada
Roselyn Blanchette, Private Citizen, Las Vegas, Nevada
Jay Craddock, Private Citizen, Las Vegas, Nevada
Shawn M. Meehan, representing Guard The Constitution Project
Brianna Hammon, Private Citizen, Reno, Nevada
Janine Hansen, State President, Nevada Families; and National
Constitutional Issues Chairman, Eagle Forum
Jim Sallee, Private Citizen, Las Vegas, Nevada
Daphne Lee, Private Citizen, Las Vegas, Nevada
Katherine R. Morra, Private Citizen, Carson City, Nevada
Carole A. Fineberg, Private Citizen, Reno, Nevada
Jordan Ross, Private Citizen, Laughlin, Nevada
David Nelson, Private Citizen, Gardnerville, Nevada
John Wagner, State Chairman, Independent American Party
Ryan Beaman, representing Clark County Firefighters Local 1908
Ron Pierini, Sheriff, Douglas County
Gerald Antinoro, Sheriff, Storey County
Eric Spratley, Lieutenant, Legislative Services, Washoe County
Sheriff's Office
Kristin Erickson, representing Nevada District Attorneys Association
Joannah Schumacher, representing American I Am
Dana Bennett, Private Citizen, Reno, Nevada
Lorne Malkiewich, Private Citizen, Reno, Nevada

Chair Stewart:

[Roll was taken.] We will start with a work session on Assembly Bill 177, and I will turn the time over to Carol M. Stonefield.

Assembly Bill 177: Revises provisions governing elections. (BDR 24-627)

Carol M. Stonefield, Committee Policy Analyst:

Before you and on the Nevada Electronic Legislative Information System (NELIS) is a work session document ([Exhibit C](#)). The only work session bill before the Committee today is Assembly Bill 177, which was heard in this Committee on March 3, 2015. It was presented by Assemblywoman Seaman.

The bill makes various changes to statutes governing candidates for election, including provisions relating to the filling of a vacancy and a nomination. These provisions provide for identifying ineligible candidates, definition of residency, and provisions relating to declarations or acceptance of candidacy. There is a mock-up on page 4 of the work session document that was submitted by the sponsor, and there is a conceptual amendment proposed by the Clark County Registrar of Voters that further revises the mock-up (page 3, [Exhibit C](#)). Mr. Kevin Powers from the Legal Division is prepared to go through the provisions of the mock-up.

Kevin Powers, Committee Counsel:

As Ms. Stonefield mentioned, before you is the mock-up and the suggested additional amendments proposed by Mr. Joe Gloria. As I go through the mock-up, I will refer to Mr. Gloria's amendments and where they would fit within the structure of the mock-up.

On pages 1 and 2 of the mock-up, sections 1.5, 1.7, and 2 work together. Those sections deal with how an ineligible candidate is addressed during the election process. Section 1.5 provides a definition of an ineligible candidate as any candidate who dies, is adjudicated as insane or mentally incompetent, fails to meet any qualification required for the office under the *Nevada Constitution* or laws of this state, or is found by a court of competent jurisdiction to be disqualified from entering upon the duties of office. Under section 2, if a candidate is or becomes an ineligible candidate, the candidate's name must not appear on the ballot at a primary, general, or special election. Subsection 2 provides that the county clerk shall remove the name of such an ineligible candidate from the ballot unless the county clerk has already sent the ballot to the printing company for printing and changes can no longer be made in the ballot.

In the mock-up, it requires the name of the ineligible candidate to be removed up to the last moment that the ballots can be changed by the county clerks. In contrast, Mr. Gloria has presented an alteration where the cutoff deadline would be different depending on the primary and general elections. Mr. Gloria recommends that the cutoff for the primary be the first Monday in April and for the general election, the last Friday in July. For municipal elections, it would be the last Friday in February for the primary and the first Friday in March for the general election. This would be a cutoff date that was earlier in the process for when the name of the candidate can be removed from the ballot. It is different from the mock-up, which is up until the last moment before the ballot cannot be changed. If that date has passed and the ballot can no longer be changed, then the clerk has a duty to do several things to give notice to the voters that there is an ineligible candidate on the ballot. The clerk can post a sign in the polling place, place a notice near each mechanical voting device, and put stickers on paper ballots. Mr. Gloria suggested that the statute also provide that stickers should not be placed on the ballots when and where prohibited by federal law. According to Mr. Gloria, there are restrictions on what stickers can be placed on ballots sent to military personnel, so this would create an exception for that situation since this is prohibited by federal law.

Section 1.7 would also apply under these circumstances. This is the case where the deadline to remove the name from the ballot has passed so that the ineligible candidate's name remains on the ballot. The county clerk places the notice on the ballot in the polling places. The section reads that any vote cast for an ineligible candidate is null and void and must not be given any legal force or effect. In this case, when the clerks testified that they were concerned about the language of counting the votes, they will be physically tabulated and counted. Those votes will be null and void and will not be given any legal effect. If the ineligible candidate receives "X" number of votes, that number will be provided, but those votes will not count toward determining the outcome of the election. If that ineligible candidate had received the highest number of votes, the candidate receiving the next highest number of votes would be elected.

We are dealing with sections 3, 4, and 4.5 in the second grouping of the mock-up. These sections pertain to vacancies in a nomination. Section 3 provides that a major or minor political party cannot fill a vacancy in a nomination if the nominee was disqualified because he or she failed to meet any of the qualifications or a court of competent jurisdiction found that he or she was disqualified from entering upon the duties of the office. Under section 3, this applies only to those two circumstances.

Section 4 deals with nonpartisan vacancies in a nomination. It preserves existing law. The procedures for filling a vacancy in a nonpartisan nomination that exists now can be done until the fourth Friday in June of that election year. Currently, where there is a vacancy for a nonpartisan candidate, nominations can be filled up until to the fourth Friday in June. This mock-up preserves that existing statutory structure.

Section 4.5 preserves the existing statutory structure for filling a vacancy and nomination before the fourth Friday in June when the vacancy is caused by the death of the candidate or a finding of mental incompetency or insanity. This preserves existing law and allows a party to fill a vacancy of nomination up to that fourth Friday in June if the candidate dies or is adjudicated mentally insane or incompetent.

The next thing to address are some of the overall changes in the mock-up. The first item is regarding the existing penalties in existing law, either misdemeanors or gross misdemeanors. The bill originally proposed increasing those penalties to a category D felony. This mock-up would decrease all of those to a category E felony.

Another change deals with the residency requirement for the district. Current law states that the residency requirement is 30 days before the close of filing for the acceptances of candidacy and declarations of candidacy. The bill originally proposed moving the 30 days to one year. The mock-up reduced that requirement to 180 days or six months. The result of the mock-up would take the existing 30 days and make it a 180-day period before the close of filing. With regard to legislators only, current law has a state residency requirement for legislators to be a resident for one year preceding the general election. This bill originally proposed extending the residency requirement from one year to five years. The mock-up would reduce that to two years for a candidate for a state legislative office, and he would have to reside in this state for two years preceding the general election.

In section 7 of the mock-up on page 6, the blue language in subsection 1, new paragraph (b) requires the filing officer to verify the accuracy of all information contained in the declaration of candidacy pursuant to the procedures set forth in the regulations by the Secretary of State (SOS). Mr. Gloria asked that provision be removed. The candidate is required to provide two forms of identification, and that is the verification that takes place by each of the clerks. Mr. Gloria is requesting that this additional step under the regulations of the SOS be removed from the bill. Currently, it remains in the mock-up.

Section 7, subsection 6, on page 10, provides that if the SOS receives credible evidence indicating that a candidate does not meet one of the qualifications of office, then the SOS shall conduct an investigation and transmit the results of the investigation to the Office of the Attorney General or the office of the district attorney, as appropriate. Then the Attorney General's Office or the district attorney's office would petition the court if they found there was probable cause to bring an action in court to seek the disqualification of the candidate. The bill originally stated the filing officer would have this duty, but under the mock-up, this duty would now apply to the Secretary of State.

Section 9 outlines the procedure for an elector or candidate to file a challenge against a candidate regarding their qualifications. The proposed bill removed any cutoff date for filing such a challenge. The mock-up proposes that the challenges be cut off at ten working days before the general election. Mr. Gloria recommends that the cutoff be the Monday preceding the period of early voting, which is roughly three weeks before the date of the general election. Ten working days is two weeks before the general election, and the recommendation from Mr. Gloria's suggestion of Monday before early voting is about three weeks before the general election. Mr. Gloria and the mock-up both propose having a cutoff date for filing the challenge before the general election.

The next major changes are in section 17.3, 17.5, and 17.7 on pages 18 and 19. These sections clarify that a certificate of election cannot be issued to an ineligible candidate regardless of the number of votes he receives.

Sections 18 through the end of the bill are conforming changes, all the ones we just talked about concerning provisions dealing with city elections. One other addition is that in an elector challenge, if the person being challenged loses, he can be ordered by the court to pay the reasonable costs and attorney fees of the person filing the challenge. This mock-up also provides that the candidate who is disqualified could also be ordered by the court to pay the reasonable costs and attorney fees of the state who is bringing the action, which is either the attorney general, the district attorney, or the city attorney, as appropriate.

Mr. Chair, that should cover all the major changes in the mock-up. The remainder of the language is directed at conforming all these sections to those major changes I have discussed. That is an overview of both the mock-up and Mr. Gloria's proposal to further amend the mock-up.

Joseph P. Gloria, Registrar of Voters, Clark County:

I have a few corrections to the amendments I have submitted. In section 1, on the page that refers to our amendments, the printing deadline for the municipals should be the last Friday in March, not the first Friday in March.

Under section 3, it is prohibited by federal law was incorrectly reported. We cannot place a sticker on an electronic ballot, which is what we provide for Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) ballots. We prefer to provide a notice and not attach anything to our paper ballots which could be problematic for our machines, and we cannot put a sticker on the overseas electronic ballots. It is not prohibited by federal law.

Kevin Powers:

To clarify, you want a change in the mock-up bill so that it does not refer to stickers but is referring to a notice provided with the paper ballots, correct?

Joe Gloria:

That is correct. The last item that was not included but I feel is important is that in section 7, the provision was corrected to indicate the SOS be the investigating officer if a credible report is provided. The city clerks do not have any more resources than we have to do those types of investigations. The same correction needs to be made in section 20. This would not make the city clerks the investigating officer, instead it would be the SOS.

Kevin Powers:

The most recent version of the mock-up does include that change on page 23.

Chair Stewart:

Mr. Gloria, these changes are workable with the election department, correct?

Joe Gloria:

Yes. After several discussions with the clerks, this is workable.

Chair Stewart:

Mr. Powers, can you have the second mock-up ready for us by Tuesday?

Kevin Powers:

Yes.

Chair Stewart:

We apologize to Assemblywoman Seaman for the delay, but we want to get the language correct.

Assemblyman Elliot T. Anderson:

I am requesting Mr. Powers to email the final mock-up to this Committee.

Chair Stewart:

The work session is closed on Assembly Bill 177, and we are opening the hearing on Assembly Joint Resolution 7.

Assembly Joint Resolution 7: Submits an application to Congress to call a convention of the states limited to proposing certain amendments to the Constitution of the United States. (BDR R-1069)

Assemblyman David M. Gardner, Assembly District No. 9

I am bringing you Assembly Joint Resolution 7. This resolution is a petition to the U.S. Congress to call a convention of states for the purpose of proposing amendments to the *U.S. Constitution*. This is allowable under Article V of the *Constitution*. The main reason this section was put into the *Constitution* was to allow states, like ourselves, to help pull back the federal government when it has gone too far. The arguments I will make are that the federal government does not have a balanced budget amendment. They are spending too much money as indicated by the \$20 trillion debt that our country has incurred.

There are concerns with the unfunded entitlements they keep sending to us in the states. There are concerns with debt ceiling fights, federal regulations, and expansion of federal power over the last decades.

This resolution, if passed, will put us on the path of being able to deal with these issues through a convention of states. To call for a convention of states under Article V, you need 34 states' approval. After that, anything that comes out of the convention of states needs to have 38 states' approval. I believe the arguments that this is going to hurt the *Constitution* I think are excessive. The argument is if we follow the *Constitution*, which Article V is part of, that somehow we would endanger it by following it. It is a circular argument that is confusing to me. That is the reason for being here, and I think changes need to be made. Through this resolution, we would have the ability to correct the expansion of the Commerce Clause and other legal issues. In general, the resolution calls for a convention of the states proposing amendments that implement fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officers and members of Congress. That is the bill, and I will have Mr. Meckler present additional testimony.

Mark Meckler, President, Convention of States Action:

Thank you for the privilege to be here today. It is a privilege I do not take lightly, and is a privilege the founders of our *Constitution* did not take likely either. At the Constitutional Convention in 1787, Colonel George Mason from

Virginia addressed the convention advising them of what he considered a fatal flaw in the document they had drafted. That flaw was that the drafters had put in the *Constitution* the ability for the Congress to propose amendments to the *Constitution* should they deem it necessary. However, they left out the ability of the sovereign citizens acting through their sovereign states the ability to propose amendments if they felt that the federal government had overreached its authority. He asked a simple question that should be asked today. That question was, do we believe that a federal government which overreaches and becomes a tyranny will propose amendments that would be appropriate to restrain its own tyranny? The logic of that question and the obvious answer was so profound in 1787 that James Madison's notes reflect there was no debate in a convention which was contentious on every issue. In fact, it was unanimously adopted and Colonel Mason suggested that it be inserted in the *Constitution* giving us the right to call for a convention to propose amendments specifically to restrain federal tyranny.

Regardless of your political ideology, 66 percent of Americans today say that the federal government has outrun the constitutional balance and that it is too big. We see that here in Nevada. We see that the majority of this state's land is owned by the federal government, with no intention of their returning it to the state. You can have it returned through a constitutional amendment under Article V. Not only do 66 percent of Americans support restraining the federal government, but I have a stack of petitions signed by over 1,300 Nevadans. We receive these petitions every day. People who support you are calling for an Article V convention. You were given a precious gift by our founders, the message in the bottle, over 200 years ago. They were depending on men and women like you who have the strength and courage to stand up when the federal government exceeds its bounds set by the *Constitution*.

Americans of all stripes believe the federal government has exceeded its bounds, and it is time that we do something about it. That is what this resolution is about today. You will hear arguments from the other side, and they will revolve mostly around a four letter word which is fear. You will hear them say that they are afraid, scared, nervous, worried, or concerned. Those are not my words, but the words of our opponents. Our founders were facing graver circumstances, but they were not too scared, too worried, or afraid of including Article V; in fact, it was unanimously adopted.

You will hear opponents talk about a runaway convention and that our *Constitution* might be destroyed by such a convention. You can see their testimony on the Internet, hear it on the radio, and in debates. They say that the American people are not intelligent, that they are immoral and not to be

trusted, and that the only solution is prayer and education. I am in favor of prayer and education. We have been doing that for a long time, hoping that the federal government would restrain itself. History indicates that the federal government has never restrained itself. It is up to us to restrain it.

In Patrick Henry's famous speech on March 23, 1775, he finished with the famous line, "Give me liberty or give me death!" Many people have not read the entire speech, but he was calling out to his colleagues in the Virginia House of Burgesses for not acting in the face of continued repression and tyranny by the British. He also said to them, "I have but one lamp by which my feet are guided, and that is the lamp of experience." He further explained to them that for the previous ten years, they had seen nothing but the expansion of British tyranny, power, and imposition of its will on the colonists. He called on the colonists to take the bold move of preparing to act against the British. I do not even think our opponents would argue that the federal government continues to expand its authority over how we educate our children, the environment, public lands, ranching, and farming. Unless we use Article V and push back, we do not have a chance of hoping history shows us that this intrusion on our rights will never recede.

Those who are opposed to this resolution harken back to the 1980s when they opposed a balanced budget amendment. In 1982, when the United States debt was a paltry \$1.7 trillion, 32 states called for a convention to discuss a balanced budget amendment. The same groups that are opposing it today, Eagle Forum, John Birch Society, and back then the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), united to oppose a balanced budget amendment. So, today we have them to thank for an extra \$16 trillion to \$16.5 trillion in federal debt. I ask the question, how much is enough before we use the constitutional provision given to us by the founders?

I want to explain the mechanisms that are available to us to prevent what they describe as a "runaway convention." The bottom line mechanism is the one the founders put in, which is ratification. Amendments are only proposed by the amending convention. Ratification requires 38 states, which is a very high bar. It takes only 13 states to stop the ratification of any amendment regardless of political ideology. Do the math. Nothing radical either left or right can be passed. Thirty-eight states, which is the mainstream of American society, must accept an amendment before it becomes part of the *Constitution*.

You need to know where the argument against this comes from because it is historically an alignment of left and right. The John Birch Society was chased out of the conservative movement by William F. Buckley, Barry Goldwater, and Ronald Reagan—are icons of the right—and aligned with the radical left.

In Montana, there were Soros-funded organizations using John Birch Society talking points. These folks are here to maintain the status quo. In the 1970s, the John Birch Society supported their own call for an Article V amending convention. This is a method to raise money to create controversy and raise membership.

The history is clear. The U.S. Supreme Court has ruled over 40 times that Congress has no role in the Article V process. It is simply ministerial. It is up to you. The founders put it in your hands and your laps. They expected you at a time like this to act, and they have faith in you. I also have faith in you. I have travelled this entire country from New York to California and have talked to legislators in every state. When I meet with state legislators, I am always impressed by the sense of public service and duty they bring to their jobs. I spend a lot of time in Washington, but the same sense of duty does not exist there. I meet a lot of self-serving people in Washington. The founders placed their trust in the right place; they placed it in you.

This debate has become very vitriolic, and that is not appropriate. The important part of this debate is the facts. Is it time to call an Article V amending convention or not? We have seen a lot of personal attacks from those who are opposed. A complaint was brought against Frank Schnorbus, who will testify today, and was dismissed as spurious. This should not be allowed in a civilized debate in this Committee. I encourage you to support this resolution.

Assemblyman Elliot T. Anderson:

When I look at this bill, I think about the first Constitutional Convention which was a meeting to talk about slight amendments, small issues, and is not totally dissimilar from what you are talking about now. Instead, they came up with a brand new document. Some argue that they went outside of the scope of their authority from their states. This is a Pandora's box. You can say that people are scared and they have good reason to be because we have no idea of the outcome.

One thing that makes me feel better about our political environment today is that we have a *Constitution* that is revered universally by different political parties. It has been something to hold onto, and it has kept us stable. When I saw it at the National Archives, I felt like I was in the presence of God. You said we should not worry, but technically under this proposal, someone could change any number of amendments of the *Constitution*.

Mr. Gardner mentioned the Commerce Clause. As much as people may or may not like the Supreme Court's rulings on the Commerce Clause, it is a new era and we have gotten used to it. Even Associate Justice Antonin Scalia has told law school students that it is not practical to go back to the pre-1942 Commerce Clause. Do you agree that we are opening a Pandora's box if this convention is called?

Mark Meckler:

With all due respect, I disagree. Ten years ago, your history would have been correct. Since then, research has been done and our website shows the commissioners who participated in that original convention. You will find that seven of the nine original delegations were sent with full authority to take any and all actions necessary to render the federal *Constitution* adequate for the exigencies of the Union. Congress followed up on it, but they had no authority to call a convention under the *Articles of Confederation*. It was the sovereign states that called the convention. Congress later used the same language to amend the *Articles of Confederation* and take any and all actions necessary. So, the history is different than you present, and ten years ago no one knew about it. Professor Robert G. Natelson had read all the commission's information, which is also on our website. There are many structural protections in place along the way. In order to presume that you could have a runaway convention, you have to presume first that the states will send their delegates with commissions which limit their authority, the delegates will violate those commissions, that you as legislators will not pay attention to the fact they are violating their commissions and will not attempt to withdraw them or correct their actions. You have to presume that you could get 26 states to do something such as affecting the Second Amendment of the *Constitution*. You also have to believe that if this happens, 38 states would ratify and that you could not stop it with only 13 states. You can believe that if you want, but history, the facts, and the numbers are not on your side.

Assemblyman Elliot T. Anderson:

We are going to have to agree to disagree because whether or not you have one professor who has one opinion, this is well-worn American history, and I would have to look at your documents.

Assemblyman Thompson:

You stated that 38 states had to approve such a resolution. My question is how many states are in the process of doing so and have already adopted such resolutions? Is there a time frame in which all of those states' processes have to be accomplished?

Mark Meckler:

Thirty-four states have to pass this resolution to call for the convention. Once the convention agrees on proposed amendments, it requires 38 states to ratify them. Georgia, Florida, and Alaska have approved the resolutions in both houses. It is interesting because Georgia is a red state, Florida is a swing state, and I am not sure about Alaska, but for lack of a better word, I think it is a frontier state. There is no time frame. The applications can aggregate over a short or long period of time.

Assemblyman Thompson:

How many states do you know of that still are in this process?

Mark Meckler:

Thirty-one states have introduced resolutions this year, and currently there are approximately 26 states pending.

Chair Stewart:

That concludes the presentation on Assembly Joint Resolution 7. Is there anyone who wishes to speak in favor of this resolution?

John Everhart, Private Citizen, Reno, Nevada:

Regarding the proposed Article V Convention, I support it as far as it goes; however, not only do we need to limit the size and scope of the federal government, but also the size and scope of the large sums of money that fund our political system. My written statement requesting that you expand the jurisdiction of this resolution to include overturning the Supreme Court's decision in *Citizens United* [*Citizen United v. Federal Election Commission*, 558 U.S. 310 (2010)] has been submitted for the record ([Exhibit D](#)).

I know there are many politicians and donors who approve of our political system being funded privately by those with the most money. On the other hand, there are politicians and citizens who are concerned about the amount of time our legislators have to spend raising money for their reelection and the enormous influence of that money. My concern is that we are becoming a plutocracy and that a government of the people, by the people, and for the people cannot be achieved under our present system with the influence of money and its donors.

In closing, in the First Letter of St. Paul to Timothy (1 Timothy 6:10), Paul warned Timothy that the love of money is the root of all evil.

Scot Clements, representing Convention of States Action:

I am a small business owner, and I live and work in Nevada. The state of Nevada has a legal right to tax and regulate only 13 percent of its lands. While we are the seventh largest landmass state, the amount of land that we actually control and can tax is slightly larger than Maryland, the ninth smallest state. The Governor has recently called for an increase in revenue for education and other things. These increased taxes and fees are bleeding small businesses and families dry. Nevada needs expansion, new businesses and communities, but we are limited by a bureaucracy of unelected officials who decide what we can and cannot do on our lands, over 2,600 miles away from Carson City.

In 1956, the people of Nevada submitted an amendment to the *Nevada Constitution* to tax federal lands with the consent of Congress. In 1996, they further amended the *Nevada Constitution* to remove the disclaimer granting the government's rights to the sole and entire disposition of unappropriated lands in Nevada. To date, the *Nevada Constitution* contains a note saying that these changes will take effect when the Congress or the courts decide to act. In almost 60 years, we have had nothing but silence from Washington, D.C. When Nevada stipulated that there would be no tax on federally managed lands until they were sold, they rested on the implied engagement of the Congress to sell the lands at a reasonable time. If lands are not sold, which is the present system, all the efforts for growth and expansion are retarded. We are forcing Nevadans to live in urban settings while having to beg their bureaucratic landlords in Washington for even the smallest of repairs.

I cannot believe it literally takes an act of Congress and over five years to get 10,000 acres for the City of Yerington in Lyon County for a flood program and economic development. Our lands, their conservation, and the development of them should not be decided by unelected bureaucrats. Nevada is rich in resources, in land, and our people are resilient, but we are tired of operating at a self-imposed disadvantage. We seek your courageous leadership in leveling the playing field for Nevada and for the nation. This resolution, A.J.R. 7, is the first step in restoring footing among the states and rebalancing the powers between the states and the federal government. Until then, we cannot expect a resolution.

Frank Schnorbus, representing Convention of States Action:

Some of you know me from previous sessions, primarily through education and homeschooling, as well as for the last session as an advocate for parental rights.

In 1994, former U.S. Representative George Miller III from California, introduced an amendment to House Resolution 6 intended to outlaw homeschooling. The public uproar was so great that he not only withdrew the resolution but became a friend of homeschoolers. It shows that even things like our local schoolhouses are not sacred at the federal level. I am a foster parent and have special education children. The federal government reimburses 11 percent for the care of special education children. Every school district has 11 percent of special education children. Whether they have 11 percent or not, they make it happen because the federal government dictates it. From the Goals in 2000: Educate America Act all the way up to the Common Core State Standards Initiative, those in Washington are pulling our strings.

The National Assessment of Educational Progress (NAEP) aggregate and longitudinal data going back and forth from the federal level is affecting education. That is what brought me here. There is a diagram ([Exhibit E](#)) on the Nevada Electronic Legislative Information System (NELIS) on what Article V of the *Constitution* does. There are two easy ways to propose amendments; one is through Congress, and one is through the state legislatures. They are both controlled by the *Constitution* and they go back to Congress, who either chooses state legislatures or state conventions to ratify them. It is a simple process. On this diagram, you can see that it is a well-defined process. The next page on the diagram shows the number of Article V applications we have submitted to Congress over the years. From 1901 to 1980, it shows the various parties. This is not a partisan issue; it is a Republican, Democrat, Silver, and Independent Parties issue. The last part of the diagram is the *Nevada Constitution*. There is a section in the diagram that requires Nevada's legislators to pass an Article V application for term-limits which A.J.R. 7 would do.

Robert Martinez, Private Citizen, Las Vegas, Nevada:

I am a member of the Wolf PAC here in Nevada, and thank you for considering Article V of the *Constitution*. Wolf PAC people believe like most of you that corruption is taking over our government and killing democracy in this country. We believe money is the reason, so we share a common interest, although we have some differences. We support limiting the federal government but have a different way of showing it.

I am a big fan of term limits, but we need to restore free and fair elections. We also need to resolve the issue of getting money out of politics. I love how our forefathers put Article V in the U.S. *Constitution* because they knew that our government would become corrupt and we would need that article. Abraham Lincoln said a government for the people, by the people, but not the person who has the most money.

Organizations such as Citizens United are ruining democracy in this country. That is not what our soldiers fight for around the world. We promote democracy free from corruption, but here at home, we see money dictating laws. Our call for an Article V includes two ideas: (1) corporations have no constitutional rights; they cannot impose their wills on others, and (2) all elections are publically funded. Each candidate gets an equal share. The person with the best ideas wins, not the one who has the most money. The candidates can campaign for your vote and not worry about fundraising.

I ask that you amend this resolution to include some of the ideas we have. California, Illinois, New Jersey, and Vermont have already proposed this resolution. New Hampshire passed it, and Hawaii passed our resolution 45 to 0 in the house. Most people would agree that money and politics are problems. Let us use this opportunity to get rid of money in politics and restore free and fair elections, giving democracy back to the people where it belongs.

Rosalyn Blanchette, Private Citizen, Las Vegas, Nevada:

What I intended to say has already been stated, so I will just say that we need a convention of states to rein in our runaway government.

Jay Craddock, Private Citizen, Las Vegas, Nevada:

I am in favor of A.J.R. 7. Those opposed to this bill will seek to cloud the simplicity of our founding fathers' intent. They may quote others as befuddled and fearful as they are. Occam's razor tells us that the simplest answer is most often the correct one. Our *Constitution* provides two methods to amend itself. The Congress has one and the legislatures of the sovereign states has the second, Article V. Congress approached the states with this issue, and they prepared an amendment.

The Federalist Papers are the written record of the *Constitution's* legislative intent. In *Federalist* No. 26, Alexander Hamilton tells us the state legislatures not only will be vigilant but suspicious and jealous guardians of the rights of the citizens against the encroachments from the federal government. They will constantly have attention to the conduct of the national rulers and will be ready enough if anything improper appears to sound the alarm to the people and not only be the voice, but if necessary, the arm of their discontent.

You have monumental responsibility. You have taken an oath to support, protect, and defend the *Constitution* against all enemies both domestic and foreign. Who is this enemy? I will call it erosion. Our *Constitution* is a living rock in the middle of a flowing stream of legal, social, and political currents. Just as flowing water moves and wears on stone, these currents wear on our *Constitution*. Our national rulers, as Alexander Hamilton called them, have lost

sight of the *U.S. Constitution*, the people, and the sovereign states who gave them legitimacy and placed limitations on that government. They placed political agenda before righteous governance and personal agenda above effective leadership, and they tear down the pillars of our country. This quagmire was not the fault of an elephant or a donkey and the constitutional convention is not a liberal or conservative cause. When we see the approval of an annual budget used as a bargaining chip in a game, our national rulers do not possess the intestinal fortitude to correct themselves. It is your responsibility to correct them and sound the alarm. Assembly Joint Resolution 7 is the voice and Article V is that arm.

Chair Stewart:

Is there anyone opposed to this resolution?

Shawn M. Meehan, representing Guard The Constitution Project:

Mr. Schnorbus is correct. There is a provision in the *Nevada Constitution* that allegedly requires the Legislature to call for an Article V convention. On NELIS, there is an opinion ([Exhibit F](#)) from a consulting constitutional attorney that references the exact same provisions in the *Missouri Constitution* that have been ruled unconstitutional. They quote from *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995): "a state congressional term limits measure is unconstitutional and it has the likely effect of handicapping a class of candidates as the sole purpose of creating additional qualifications indirectly." So, that is irrelevant. I need to correct some of the earlier comments made by Assemblyman Elliot Anderson. Congress took out of the Constitutional Convention record that on September 26 and 27, they debated the manner in which to send the *Constitution* to the states for ratification. Critics of the *Constitution* wanted it transmitted to the state legislatures with the indication that the Convention had violated Article XIII of the *Articles of Confederation* and the congressional resolution of February 21, 1787.

I am also going to correct Mr. Gardner because Article V of the *Constitution* does not say a convention of states, but instead says that they shall call a convention for proposing amendments. Previous testimony stated that Colonel Mason, in the last two days of the Constitutional Convention, cited the prevention of or reaction to tyranny in Article V. I searched the record of the convention and did not find the word "tyranny" anywhere near Mr. Mason's name. Also, Article V passed nem. con. That is without objection and is not unanimous.

There is some libel online saying that the Soros Group and the John Birch Society (JBS) have been working together, but that is not the case. I am not a JBS member, but I am thankful for their support.

Mr. Meckler said one of his associates cited that the government is out of control, espousing the authority to educate your children. Mr. Michael Farris, one of the leaders of the Convention of States who proposes a parental rights amendment says "neither the United States nor any State shall infringe these rights without demonstrating that its governmental interest as applied to the person is of the highest order and not otherwise served." Those are the amendments that are coming your way.

Brianna Hammon, Private Citizen, Reno, Nevada:

I am a librarian and an advocate. I am so glad someone is putting forth the idea of an Article V convention. I am concerned that we are missing the real problem in politics. I have been working for the past five years to get federal legislation that mirrors Nevada law that prohibits putting children with disabilities in closets. You would think that is a no-brainer, but 35 states still allow that atrocity. Every year our bill has zero percent chance of passing, and the reason is not because the good people in Congress do not know that it is wrong. It is because the good people in Washington cannot move to do the important things or even engage in important debates because money rules the day. I am here today asking you to amend this resolution to read like the resolution put forth by Wolf PAC. We have all been receiving this language by email and the secretary also has a copy. Please fix the real problem in Washington and save our democracy.

Janine Hansen, State President, Nevada Families; and National Constitutional Issues Chairman, Eagle Forum:

I gave you each a copy of Article V of the *Constitution*, and I highlighted the section that refers to a convention for proposing amendments ([Exhibit G](#)). There have been a myriad of amendments suggested today.

The last clause in Article V says, "no state, without its consent, shall be deprived of its equal suffrage in the Senate." This means that no amendment can deprive a state of its equal suffrage. We all get two senators. Because that is not allowed, it states that anything else in the *Constitution* is open to an amendment. That is what Article V provides.

On page 2, line 7 of the resolution, it states that it is to impose fiscal restraints on the federal government. New Mexico recently had a balanced budget amendment—which would be more limited than imposing fiscal restraints—that required a large fiscal note because of the federal money that New Mexico would be losing. Nevada receives 25 percent of its revenue from the federal government and imposing fiscal restraints might mean that Nevada would lose all of its federal funding. Just think what that would do to our budget and to the work you are trying to do here at the Legislature.

Line 8 outlines limiting the power and jurisdiction of the federal government. We know that the purpose of the *Constitution* was to limit the power of the federal government. That was the reason they passed it.

Assembly Joint Resolution 7 opens up the *Constitution* for revision and is something that should be very clear. I was interested to see that Wolf PAC is testifying today. They have apparently been funded by George Soros. They are also in league with another organization called Move to Amend, which was promoting a constitutional amendment through an Article V convention which would limit free speech. According to their resolution, you cannot give money to your own campaign. We know there are many conservative groups that have a myriad of amendments such as the ten proposed by Mark Levin.

Former Associate Supreme Court Justice John Paul Stevens has six amendments, including one which would eliminate our right to keep and bear arms that says "A well regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear arms when serving in the militia shall not be infringed." We see there are many people who want to amend our *Constitution*. We have suggested that there would be one vote for each state at a constitution convention; however, the federal legislation which passed the Senate in the past sponsored by Senators Sam Ervin, Jr. and Orrin Hatch indicates it would be proportional just like Congress, so Nevada would have little to say at a federal constitutional convention.

Jim Sallee, Private Citizen, Las Vegas, Nevada:

This is unquestionably the most important bill that I will ever speak about. Janine Hansen just talked eloquently about a lot of the points that I was about to make, so I will just address the points that she did not make.

There is a document from the Congressional Research Service of the Library of Congress, "The Article V Convention to Propose Constitutional Amendments: Contemporary Issues for Congress" ([Exhibit H](#)). I recommend the Legislature have the Legislative Counsel Bureau (LCB) review it. It outlines what powers Congress has in this process. This has not been talked about.

The American Legislative Exchange Council's "Proposing Constitutional Amendments By a Convention of the States: A Handbook for State Lawmakers" was written by Robert Natelson in 2011. They continually refer to it as convention of states; it should be referred to as a constitution convention because that is what it is. At the bottom of the first page is a caveat which states, "Nothing in this Handbook should be construed as legal advice; seek competent counsel in your own state." That is not really a good thing to put in your book. On page 7, it states that the American Legislative Exchange Council

has recommended several constitutional amendments to limit some of the worst abuses of power. There are only three areas mentioned in A.J.R. 7 that they want to be involved in.

I have three reasons why we must oppose all Article V applications. The *Constitution* is not the problem. The Convention of States organization emphasizes how they want to preserve the *Constitution* by utilizing one of its articles to amend the *Constitution* revealing that they barely peep about any restoring of the limitations of government provided by the *Constitution's* enumerated powers. The Article V conventions would have the inherent power to be runaway conventions. Once Congress convenes a convention, it cannot be undone, and no predetermined rules or limitations adopted by either Congress or the states will have any bearing on what the convention delegates may choose or propose. As a representative of the sovereign will of the people at large of each state, convention delegates would have free latitude to propose any changes they see fit, including the writing of a new *Constitution*. Nevada does a lot of gambling. We make our money there. Please do not gamble with the *Constitution*.

Daphne Lee, Private Citizen, Las Vegas, Nevada:

I understand the sentiments coming from all different sides about reining in the federal government, and everyone has all these wonderful ideas about having the *Constitution* restored, but we do not even follow the one we have today. Instead of all of our time and energy being spent on a constitutional convention and listening to the bickering from both sides, I would like to see our energy spent on restoring the *Constitution* that we have now. About the Fourth Amendment, we have whistleblower Edward Snowden telling everyone that the federal government is spying on every one of us and collecting all of our data and storing it in a facility in Utah. Then the fine people of Utah are using their state legislature to try to turn the water off there. If Congress is not going to fix it, then Utah is going to fix it. Nevada's Senate Bill 352 pertains to the National Defense Authorization Act indefinite detention provisions, and about Nevada legislators standing up for the rights of due process for Nevadans. I think there are other ways we can use state legislators to restore the *Constitution*. I do not have faith. I have been to conventions and they are not fun, and if you have a majority, the minority is overruled. I do not feel confident that this is the method to restore the *Constitution*. I hope this Committee makes the right decision to reject this resolution.

Katherine R. Morra, Private Citizen, Carson City, Nevada:

Adding amendments to a document we are already ignoring is not going to solve our problems. When this issue was debated at a local meeting, I inquired of the Article V supporter asking why the government would adhere to

amendments when they are largely ignoring the original document? He admitted this might not work, and we might have to come back in 50 years and do it again. I, for one, am not amenable to opening up the *Constitution* to this kind of risk for something that does not even have teeth to last 50 years. The threat to the *Constitution* is very real. There are many people in this country who are opposed to the fundamental principles that made have this country exceptional. Make no mistake, these groups are waiting expectantly for us to open the possibility of gutting this precious document. I have heard many supporters of this movement who say there is no danger of losing the rights guaranteed by the *Constitution* because of the ratification process involved. I remind this body that during the Constitutional Convention of 1787, not only did they not execute the purpose for which they were sent, which was to amend the *Articles of Confederation*, but they also changed the ratification process. There is no way to control the delegates or the process, and I remind you that the enemies to our foundational principles are many. Please vote no on this resolution. [Submitted written testimony ([Exhibit I](#)).]

Carole A. Fineberg, Private Citizen, Reno, Nevada:

I know you have heard a lot of information from the pro side of this concept, and I hope to shed some light without repeating what has already been said. Who chooses the delegates of the convention of states? Is it the Congress, the Governor, or your esteemed body? Is it a lottery? It is not clearly defined. If it is proportional as Ms. Hansen said, then California and New York would rule the day. Ms. Hansen also stated that everyone has a pet peeve about something that they have a burning desire to fix. The convention of states advocates would have you believe it will be a calm, easy gathering of folks who only want what is best for America. Where is that guaranteed and where is it written? Once the convention convenes, our *Constitution*, as the greatest written piece of liberty and governance known to mankind, lies on the operating table. Any number of bad things can happen. I do not want to see this happen, and I know many others who do not want to see this happen. Our legislators in Washington may not be completely following the *Constitution*, but do you change it for them? If you are married and your spouse was not following the marriage vows, do you change the vows? That is not the way life goes. It is there and intact today. The laws, articles, and amendments are in place for us to enjoy life, liberty, and the pursuit of happiness. The Convention of States' arguments are that our elected officials are not following the *Constitution*. What difference does it make? Instead of changing the *Constitution*, we need to elect morally sound people who will follow the *Constitution*. It seems like a no-brainer to me. Do not vote to rip apart the very fiber of the document that embodies our goodness, our fairness, and our freedoms bestowed on us by our Provider and our founders. Please vote no on A.J.R. 7.

Jordan Ross, Private Citizen, Laughlin, Nevada:

I like everyone in the room so there is no one I want to divide into one political side or the other. I have no conspiracies to bring before you. Some of the observations are how I look at the federal government. My granddaughter is a quarter of a million dollars in debt, which is her share of the public debt. She is four. When the Congressional Budget Office was given the task to find out how many criminal felonies are established by law, their count exceeded 8,000 offenses, and they gave up. I am not happy with the federal government being out of control. This is an interesting piece of legislation because it does cross left and right and has even cut across the usual factional divides in my own party. As some people are painfully aware, I am well known for splitting hairs when it comes to rules. My concern is that we are taking a shotgun to a mosquito. There are people I respect on both sides of this argument, so I am not looking at conspiracies but for the dull, mundane, and the procedural. As a political culture, we need to see more in the way of usual constitutional amendments. There are things in the original *Constitution* that, had I turned them in to my seventh grade English teacher, she would have marked me down for having made run-on sentences. Let us try to first fix this the way it is meant to be done. I reluctantly but firmly ask that this Committee not pass this resolution.

Assemblyman Munford:

I do not have a question, just making a statement. While listening to those talking about the *Constitution* and what it has and has not done, I am the only person of color in this room. I look at the *Constitution* as a moral document. Some of the things the founding fathers said and did made it look like they were contradicting themselves. They were like hypocrites in terms of how things have evolved here in America. The lack of privileges and opportunities making life better, especially for people of color, is based on the words and ideals that are in the *Constitution* beginning with ending slavery up to the Civil Rights Movement. It was all based on the words in the *Constitution*. I cannot see where we need to amend it. I thought it was a living constitution and could be applicable to our generation and it has been. The procedure and method that makes it a living constitution is the amendment process, and you can add and change it anytime you want if you go through the proper steps. We presently have 27 amendments. If you go back through all of them from 1 to 27, they have been directed at equality and including everyone in a way that gives you a chance and the ability to participate in government. The Tenth Amendment is very good because federalism is in it. If powers are not granted to the federal government, they are passed on to the states. Everyone has a voice to participate. I think you should leave it alone.

David Nelson, Private Citizen, Gardnerville, Nevada:

I want to speak about the history of Article V. Reading newspaper articles from that period, the argument was made that this was a grand experiment. No one had ever seen a constitution like ours before and no one knew if it would work or not. One of the main arguments during the approval of this document was whether we gave the federal government or the states too much power. So, Article V included the possibility of both the states and Congress proposing amendments to the *Constitution* to be ratified by the states. The reason this is important is because it demonstrates what the people thought Article V would do and enabled us to maintain the equilibrium between the federal government and the states. You may say that the *Constitution* is perfect; I do not know. It provided for a way of correcting errors that may have occurred and one of those errors was whether the federal or state government would have too much power. We are looking at a way for the state to speak up and say we need to have some of our rights restored. None of you would say that you have the power of the Tenth Amendment. It has been stripped from you. If you do not want to use Article V as a tool to regain strength in this government, what tool will you use? There are no other tools available to you in the *Constitution* to say that we want some of our rights back. You have heard a lot of arguments today on who said what, but it boils down to we, the people, need our state representatives to speak up for us. If you are not willing to speak up for us, where do we go next?

John Wagner, State Chairman, Independent American Party:

We feel that the *Constitution* as it is now is about as perfect of a document as you can find. It has stood fast since its inception. Yes, it has had amendments and yes, there were injustices done by good people. We have been working on the *Constitution* as we go along. The Tenth Amendment is a good one and the reason it is not used more is because some of the states do not want to use it. They do not say this is our jurisdiction and if it goes to court, then go to court with it. There are ways to amend the *Constitution* and one way is getting rid of your elected officials if you do not like them and replace them. Mark Levin is making money off of this as well as other newscasters because their ratings go up and they make more money. Profit is being made on promoting this. We should not try to fix anything that is not broken. And if you ask if I am happy with what Congress is doing right now, the answer is no. That is why I belong to another political party, and I want to work as hard as I can to help our government. One of the reasons we lobby here is because we love our state.

Chair Stewart:

Is anyone in the neutral position on A.J.R. 7?

Assemblyman Chris Edwards, Assembly District No. 19:

I am testifying neutral on this proposed resolution. I am looking at the proposal for both the pros and the cons. I fully appreciate the goals that have been stated in order to win over many of the conservatives and some of the liberals. I recognize that the *Constitution* has the methods by which we can pass amendments and change the *Constitution*. I know that both could work, and I know one way has worked throughout the years.

I think Assemblyman Elliot Anderson made some great points talking about the history of the Constitutional Convention in 1787. I think he made a great point about how it got out of control. As we move forward, I believe we need to see if the other side can propose ways that would convince us this could be avoided. I do not know, but I would like to see them. We should discuss them and see if they are convincing. We need to consider if this is the way to repair some of the things that need fixing in the *Constitution* and the way we do business, or is this the wrong execution of the right idea? One proposal is that we talk about how to find answers. We need to find out what this would do to our freedom of speech, the right to bear arms, the right of trial by jury, the right of women to vote, and Assemblyman Anderson's favorite of no quartering of troops. I think we need to do that in light of what we could gain, which might be a balanced budget amendment and term limitations. We need to consider both sides with our eyes open and not have too much faith on one side or the other. We owe it to our constituents to make sure that what we decide is given a fair and objective hearing and that our outcome will be as good as the outcome of our founding fathers.

Chair Stewart:

Anyone else in the neutral position on this resolution? [There was no one.]

Assemblyman Gardner:

I want to bring up a couple of points that were brought up in the oppositions' testimony. We heard about organizations which were powerful enough to take over the convention and if they were powerful enough to do this, why are they not the ones who are promoting it? If they have that much money and power, they could have just written their own *Constitution* and this could have been avoided. I agree that we are not following the *Constitution* as it is written, but that is a difference of legal opinion. I argue that there were not only 27 amendments, there were thousands of them. Court cases have changed everything from the Commerce Clause to the due process clauses in various amendments as well as the *Constitution* itself. Senator James Settlemeyer has a bill which includes the wording "one state, one vote." I believe there are good reasons we can have the things we all want in order to have a better functioning state and federal relationship.

Chair Stewart:

The hearing on Assembly Joint Resolution 7 is closed, and we will open the hearing on Assembly Bill 457.

Assembly Bill 457: Revises provisions governing reports required to be submitted by various entities. (BDR 1-937)

Assemblywoman Marilyn K. Kirkpatrick, Assembly District No. 1:

I bring before you a bill that was brought from the Legislative Commission, and I am here on their behalf. I always like to share history because I believe that the institutional knowledge is important. In the 2013 Legislative Session, Assemblywoman Teresa Benitez-Thompson and I sponsored a bill to get rid of dated reports that did not make sense anymore and that no one looked at. On the Senate side, Senator Debbie Smith also had the same bill, so we combined them. Chair Stewart was also a member of the Legislative Commission. We found that reports dating back to the 1980s were not looked at and reports are only good if they are being used. The Legislative Commission made recommendations on the reports that you see here today. There are some modifications making them more reasonable. Because they were still being used, instead of being annual they became biennial. This bill is eliminating duplicate or obsolete reports.

Section 18 of the bill concerns the ambulance transport legislation. Apparently that report is still being utilized. As a friendly amendment, not on behalf of the Legislative Commission, but on behalf of Marilyn Kirkpatrick who represents Assembly District No. 1, I would like to delete section 18 and keep that report as long as it is being used.

This is a simple bill and I probably set myself up for questions, but if we can do away with things that are no longer efficient and make room for those that are efficient, then that is my purpose.

Chair Stewart:

Assemblywoman Kirkpatrick, does that conclude your presentation?

Assemblywoman Kirkpatrick:

Yes. I want to reiterate that the Legislative Commission is made up of an equal number of members from the Senate, the Assembly, and both parties.

In order to pass anything out of the Legislative Commission, there must be a bipartisan solution. The Senate side includes Senator Michael Roberson, Senator Ben Kieckhefer and Senator James Settelmeyer, and on the Assembly side is Chair Stewart, myself, Assemblywoman Teresa Benitez-Thompson and Assemblyman James Oscarson. It is a bipartisan committee that does interim work.

Chair Stewart:

I can testify that is true. Are there any other questions? Is anyone in support of this bill?

Ryan Beaman, representing Clark County Firefighters Local 1908:

We are in support of the friendly amendment that was added. We were part of introducing the legislation on Assembly Bill No. 225 of the 75th Session in 2009 which dealt with transporting patients by ambulance with the help of the fire department. We currently look at that report every quarter when it is submitted.

Chair Stewart:

Is there anyone else in support of this bill? [There was no one.] Is there anyone opposed to this bill? [There was no one.] Is anyone neutral to the bill? [There was no one.] The hearing is closed on A.B. 457, and we will open the hearing on Assembly Bill 334. Assemblyman Wheeler, please come forward.

Assembly Bill 334: Authorizes an association of elected sheriffs and other chief executive officers of city, county or state law enforcement agencies to request the drafting of a certain number of legislative measures for each regular session. (BDR 17-172)

Assemblyman Jim Wheeler, Assembly District No. 39:

During the interim, I was approached by the Nevada Sheriffs' and Chiefs' Association about getting some of their bill draft requests (BDR) back. So we looked at different scenarios and we felt that three BDRs would be a good starting point for the Sheriffs' and Chiefs' Association. They used to have BDRs, but they were taken away six or eight years ago. I felt that since they were closest to the streets and what happens out there, that their voice should be heard without coming to one of us and saying we really need this bill, which is what is happening now, and it is eating up our bills. That is the onus of the entire bill. Sheriff Pierini from Douglas County and Sheriff Antinoro from Storey County are here. Sheriff Antinoro is President of the Nevada Sheriffs' and Chiefs' Association, and Sheriff Pierini is the President of the Peace Officers' Standards and Training Commission. I will let them continue presenting this bill.

Ron Pierini, Sheriff, Douglas County:

Originally when I was the president of the Sheriffs' and Chiefs' Association, we had five BDRs, then four years ago it changed to zero. One of the things Assemblyman Wheeler mentioned is the fact that we are in the streets every day, seeing the laws that do not work, that need to be changed, or modified. It gives us an opportunity to tell you there are statutes that need to be created or changed to make our mission successful. Three BDRs would help. Now we are reaching out to assemblymen, senators and state agencies to allow us to use their BDRs. It would be nice to have them back again. The Sheriffs' and Chiefs' Association has over 150 members; 17 of them are sheriffs in Nevada. We are an organization that wants to become better as there are many issues that need to be addressed. I appreciate your approval of this bill.

Gerald Antinoro, Sheriff, Storey County:

I believe both of these gentlemen have done a good job of putting this into the context of our intent. We want to be able to be responsible for the things that we feel as law enforcement personnel need to be addressed.

Assemblyman Thompson:

When I was here in the last 40 days of the 77th Legislative Session, I was on the Assembly Committee on Legislative Operations and Elections. One of the bills was a cleanup bill. We looked at all of the BDRs, their history, and made some significant changes. Is it correct that you, at one time, had five BDRs? Did you use them or were you maxed out? How did you come up with the number three because once we give the BDRs back to your association, we would have to potentially do the same thing for others who are faced with the same situation.

Ron Perini:

We always used five. In fact, we wanted more than that, but we had a meeting with the members and picked the top five we felt were most important. So, three of them would be a great help to us.

Chair Stewart:

Does this conclude your presentation, Assemblyman Wheeler?

Assemblyman Wheeler:

Yes.

Chair Stewart:

Is there anyone else in favor of this bill?

Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office:

We are here in support of A.B. 334. I want to thank Assemblyman Wheeler for bringing this bill forward. Sheriff Chuck Allen and prior sheriffs have always been members of the Nevada Sheriffs' and Chiefs' Association, and I represent this association on the Advisory Commission on the Administration of Justice. There are often topics brought up there that might be brought before this body. Those are the types of scenarios that we would use in the BDRs. It is not just the association itself but the things we are involved in legislatively.

Kristin Erickson, representing the Nevada District Attorneys Association:

A number of years ago the Nevada District Attorneys Association was also a victim of losing five bill draft requests (BDRs). As a result, we are in support of the Sheriffs' and Chiefs' Association regaining three BDRs. We believe it is important to give them the opportunity and the avenue to support, protect, and improve our public safety. [A proposed amendment ([Exhibit J](#)) was submitted but not discussed.

Chair Stewart:

Is there anyone else in favor of this bill? [There was no one.] Is there anyone opposed to this bill? [There was no one]. Is there anyone neutral?

Joannah Schumacher, representing American I Am:

I like giving our elected sheriffs an opportunity to bring legislation forward. I do not like going through an association. I propose that you allow one BDR for each sheriff. He is an elected person and should be allowed to have a voice. I am neutral on this bill.

Chair Stewart:

You want 17 BDRs, correct?

Joannah Schumacher:

I think that is reasonable. These are elected men and women who have put themselves in a position to fight for our rights. They are our last hope between us and those who might want to take our rights away. It is important that the office of sheriff be honored and for them to have a voice.

Assemblyman Wheeler:

I will talk to you off line about what may become a friendly amendment; other than that, I have no comment.

Chair Stewart:

The hearing is closed on A.B. 334, and we will open the hearing on Assembly Bill 456.

**Assembly Bill 456: Abolishes certain committees, boards, funds and panels.
(BDR 38-551)**

Assemblywoman Irene Bustamante Adams, Assembly District No. 42:

I chaired the Sunset Subcommittee of the Legislative Commission last interim with Assemblywoman Fiore. For your consideration is Assembly Bill 456 which contains recommendations from the Sunset Subcommittee. In other hearings, I have discussed the mission of the Sunset Subcommittee so I will not do that now, but I will submit my written testimony so that it is on the record ([Exhibit K](#)).

Assembly Bill 456 has six recommendations for your consideration. We looked at over 200 boards and commissions and took the inactive ones as part of our deliberation. The recommendations here are boards or entities that have been inactive for some time. I will go through each section, but in order to understand the bill, pages 8 and 9 list the repealed sections.

In *Nevada Revised Statutes* (NRS) Chapter 233A, these sections provide for the Advisory Committee Concerning the Children's Health Insurance Program. The Committee was established in 1999 at the request of the Legislative Committee on Health Care to ensure enrollment of Native American children in Nevada Check Up. The Advisory Committee is intended to advise the Nevada Indian Commission, which in turn advises the Division of Health Care Financing and Policy, Department of Health and Human Services (DHHS) of its concerns. The Executive Director of the Nevada Indian Commission, Sherry Rupert, testified before us that the Advisory Committee has been inactive since 2003, principally because consultation between the tribes and the DHHS has improved. She suggested the Advisory Committee served its purpose and could be terminated.

The second recommendation is in NRS Chapter 428. The Board of Trustees of the Fund for the Institutional Care of the Medically Indigent was created in 1997 as part of a larger bill to realign the responsibility for the Medicaid match for long-term indigent care from the local governments to the state. The Board consists of five county commissioners nominated by the Nevada Association of Counties and appointed by the Governor. The fund was established to serve as a revenue pool to assist counties with their portion of the long-term care costs. It received State General Fund appropriations for several years until 2003 when the state began to pay for long-term care costs after which the Fund became inactive. The Board has no members, and in sections 3 and 4 of the bill, it provides for any transition necessary relating to the Fund and to the Board. Any money remaining in the Fund will revert to the State General Fund, and any regulations adopted by the Board of Trustees will become void.

The third recommendation concerns the Rural Advisory Board, to Expedite Proceedings for the Placement of Children, established in 1999. The Board's purpose is to review adoption issues in rural areas and to move children out of foster care as soon as possible. The Board members are to come from local advisory boards established by district court; however, none of the local boards appear to be active. The Division of Child and Family Services (DCFS), Department of Health and Human Services (DHHS) confirmed that the Rural Advisory Board has no members and does not meet. In fact, we have no record that the Rural Advisory Board has ever met. Sections 1 and 2 of the bill make conforming changes to remove references to the Rural Advisory Board.

The fourth recommendation refers to NRS 540.111 providing for the establishment of the Advisory Board on Water Resources Planning and Development. The Advisory Board was created in 1989. Its purpose was to advise the Division of Water Planning and to develop a state water plan in 1999. The State Department of Conservation and Natural Resources dissolved the Division of Water Planning in 2000. The Division's programs were transferred to the Division of Water Resources. The Office of the Governor was the appointing authority that confirmed the Board be inactive since the Division of Water Planning ceased to exist. The Sunset Subcommittee could find no evidence that it has had members since 2001.

The fifth recommendation is the Collection Agency Advisory Board in NRS Chapter 649. This Board was created in 1989 for the purpose of advising the Legislature regarding collection agencies. We have no record that this Board met after 1999. The Commissioner of the Division of Financial Institutions, Department of Business and Industry indicated to the Subcommittee that he would not object to terminating the Board.

The last recommendation is the State and Local Government Panel on Renewable and Efficient Energy. The panel was added to NRS Chapter 701 in 2009 for the purpose of advising state and local government on the retrofitting of public buildings. Its members are to be representative of state departments and agencies and associations of the city, counties, and school boards. The panel is inactive and there is no evidence that it ever met. The Director of the Office of Energy, Office of the Governor requested that the Subcommittee repeal the panel.

In conclusion, these are recommendations from the Sunset Subcommittee and in consultations with them, we made sure they were on the record to repeal these entities from the NRS. At this time, I would be happy to take questions. In addition, your staff person was also the policy analyst on the Sunset Subcommittee, and she can also answer any questions.

Chair Stewart:

I cannot imagine anyone having questions about removing boards that are not doing anything. Is anyone in support of the bill? [There was no one.] Is there anyone opposed to the bill? [There was no one.] Is anyone neutral on the bill? [There was no one.] The hearing is closed on A.B. 456 and we will open the hearing on Assembly Bill 384.

**Assembly Bill 384: Establishes the Nevada Legislature Oral History Program.
(BDR 17-1011)**

Assemblywoman Heidi Swank, Assembly District No. 16:

Joining me today is Assemblywoman Amber Joiner, who will start off the presentation on Assembly Bill 384, and then I will join her.

Assemblywoman Amber Joiner, Assembly District No. 24:

The purpose of A.B. 384 is to formalize in statute the Nevada Legislature's Oral History Project which has been dormant for the last six years. In 2007, Senate Bill No. 579 of the 74th Session appropriated funds to enable the Research Division of the Legislative Counsel Bureau (LCB) to create an oral history of the Nevada Legislature.

Between 2008 and 2009, I was fortunate enough to be assigned as a project coordinator for this project while serving as a Senior Research Analyst for LCB. We contracted with a skilled oral history team to conduct 17 videotaped and audiotaped interviews of former legislators who had made significant contributions in the state. Highlights from these interviews were compiled into a half-hour video that some of you may have seen either at Old Timer's Day in the last several sessions or at the freshman orientation. It was called "Remembering Citizen Legislators: The Nevada Legislative Oral History Project." You should have a two-page handout in front of you ([Exhibit L](#)). There is a fact sheet and also a list of all the oral histories we have currently. There is a transcript, video, and audio for each of them. The compilation video is at the top of the page if you want to click on it and watch it. In these videos, you will see a veritable treasure trove of historical nuggets. You will hear everything from fun anecdotes to factoids that give a glimpse of how Nevadans lived. Also, there is timeless wisdom shared on how to represent constituents and how to work across party lines. I find it fascinating that a lot of the policy issues they grappled with in these oral history interviews are some of the same ones we still work hard to overcome, the many challenges involved with equal rights, education, and how to fund essential services. We can learn a lot by listening to our predecessors.

Chair Stewart:

One of the first people you should interview is Assemblyman Munford if this bill passes. This man has a wealth of information on history. Would you agree to that, Assemblyman Munford?

Assemblyman Munford:

Yes.

Assemblywoman Joiner:

Despite how amazing these videos were, since the project ended in 2009, no additional oral histories have been conducted and no additional funds have been allocated to the project. Unfortunately, since those interviews, we have lost five interview participants. The reason I bring this up is because in the subsequent six years, we were unable to conduct oral histories on people because they had passed away. For me, this is a time-sensitive issue. I hate to miss anymore legendary legislators who have a lot to offer in these histories by not moving forward with this bill this session.

This bill has a fiscal note of zero because it does not require that the LCB conduct a certain number of oral histories. It stays within the limits of available money. It also provides that the Research Division will propose a plan to the Legislative Commission for conducting legislative oral histories and a budget proposal prepared during their normal budgeting process. The bill will be explained by Assemblywoman Swank, and after her explanation, we have a Nevada historian, Dana Bennett, with us who was the main interviewer in the original project, as well as other supporters who were involved in the project. Before I conclude, on your fact sheet you will notice that it is prepared by Amber Joiner and Donald Williams. Mr. Williams is Director of the Research Division, and I received word from him that he was not able to make it here today, but he supports the bill and worked incredibly hard on this project.

Assemblywoman Swank:

Section 2 gives the Research Division of LCB the permission to protect and preserve these oral histories as money is available.

Subsection 3 states that the Research Division must submit a plan to the Legislative Commission for approval of this project and that the plan should include procedures for conducting and preserving oral histories and related materials. This could be books, documents, or whatever the individual would like to add to their oral history. They also must develop policies which would include a format for any oral histories that were done externally. So if there was someone who had his own oral history prepared, he could submit it as long as it met the standards that were set in this plan by the Research Division for

the oral history and related materials. The policies deal with release of the oral histories and related materials to the public. This is important because one of the things that I want to include in this plan is that we could interview current legislators, not just past legislators. Looking at this as an anthropologist, in your first legislative session, there are a lot of things that seem remarkable but in later sessions, they seem less remarkable and become part of the flow of the Legislature. We want to make sure that people who are going to continue to run for office would not need to release their oral histories until they no longer run for office. They would have that control. The policies would have to cover the transferring of oral histories and related materials to the Division of State Library and Archives, and any other additional policies that are needed for the program.

Subsection 4 allows the director of the Research Division to accept gifts, grants, and donations for the program. As you retire from the Legislature, you can make donations to help keep the history of this body alive.

Subsection 5 states that the oral histories are to be kept confidential and there must be a policy for their release to be developed by the Research Division and approved by the Legislative Commission. This refers back to protecting legislators' information.

Subsection 6 states that the Research Division can transfer the oral histories and related materials to the Nevada State Library and Archives.

Subsection 7 outlines the reporting requirements for the program.

The long list of numbers in subsection 8 exempts this program from the requirement that all books and records of a government entity be made public. This also protects legislators' information as long as they want it protected.

Chair Stewart:

Are both of you going to be in this program?

Assemblywoman Swank:

I hope to be.

Assemblywoman Joiner:

Yes, I would love to.

Assemblyman Trowbridge:

I think this may seem like a fluff project but it is not. I have been involved in programs such as this, and they are incredibly important. The only thing

I would suggest to enhance it would be to involve someone from the library early on in the process just because of the way things are organized and how librarians think.

Chair Stewart:

Assemblywoman Joiner, do you know where the early interviews are kept?

Assemblywoman Joiner:

The original idea was to keep them in the LCB Research Library, which is where they are currently. The only time I envisioned the State Library and Archives being involved is if for some reason the Research Library ran out of space or if it was determined through the Legislative Commission's approval and plan that there was a need to transfer them. I believe we have the capacity to keep them here at the Legislature.

Chair Stewart:

Ms. Stonefield tells me that is where they are. Is there anyone in support of this bill?

Dana Bennett, Private Citizen, Reno, Nevada:

I am here as the former project manager of the Nevada Legislature Oral History Project.

Chair Stewart:

I believe you are the first historian to head up the Nevada Mining Association, correct?

Dana Bennett:

Yes, and the first woman. I began working at the Research Division of the Legislative Counsel Bureau in December 1988. During my ten years in the Division, I developed a deep interest in the history of this institution. I worked on the revision of the political history of Nevada in 1996 and published several articles related to legislative history, one of which was co-authored with my former boss, Lorne Malkiewich.

Recently I completed a doctor of philosophy (Ph.D.) in history with a dissertation that focused on Nevada women lawmakers and their involvement in tax policy development before 1960. While I was a history doctoral student, I was part of a group that successfully bid for the job of conducting oral histories that Assemblywoman Joiner described. Over that 18-month period, I had the privilege and the joy of interviewing some of Nevada's legendary legislators, such as Senator Virgil Getto, who I believe has the distinction of being a freshman five times. One of the people who got me to thinking about

this process was Senator Jack Vergiels, who I believe is the only person to have served as both the Speaker of the Assembly and Senate Majority Leader. Senator Vergiels started telling me fantastic stories, and I wanted to get them recorded but that did not happen. He was on the list of people to be interviewed as part of the Legislature's Oral History Project, but he had become ill and deteriorated very quickly. So, we lost those stories.

That is emblematic about the importance of this project. As the project manager, I interviewed more than half of them and was able to capture an interview with William D. "Bill" Swackhamer who first served in the Legislature in 1947 as Speaker and eventually became Secretary of State. It was a privilege and a lot of fun. The importance of oral history is that it captures the color commentary. The legislative record, history, and journals are the play-by-play, but the color commentary is when the people involved tell you what happened in the back rooms. In the records there is information about when the state Senate passed the Equal Rights Amendment (ERA) in the 1970s, but until you hear Senator Joseph M. "Joe" Neal explain how he maneuvered that, you do not get a full understanding of what really happened. I am happy to answer any questions.

Lorne Malkiewich, Private Citizen, Reno, Nevada:

I am here today as a former employee of the Legislative Counsel Bureau (LCB). I was employed by the LCB for 30 years; 18 years as Director, and I also participated in the original oral history project. I am strongly in favor of the bill and in continuing this project. I spent a number of years in charge and loved every minute of it. I had the pleasure of working with many of the legislators who were interviewed as part of this project. I have worked with Assemblyman Ohrenschall's mother, was hired by his stepfather, worked with Assemblywoman Neal's father, and with Senator Segerblom's mother. I think the bill is very well done to put it in the Research Division and have the Legislative Commission approve it. There is no cost and it is within the limits of appropriation allowing gifts, grants, and working with the State Library and Archives. I think it is a wonderful project and I encourage your support.

Chair Stewart:

Assemblywoman Swank, I think we could expand this bill to not only include legislators but those who worked in the Legislative Building. I think these two people in front of us, plus the legislator to my right, would be excellent people to interview. Is there anyone else in support of A.B. 384? [There was no one.] Is there anyone opposed to this bill? [There was no one.] Is anyone neutral to this bill? [There was no one.] Assemblywoman Joiner and Assemblywoman Swank, I have one condition on passing this bill, which is that both of you need to consult with me as to the list of people who need

to be interviewed. I think on the top of that list would be former Assemblyman John C. Carpenter. I would appreciate being involved with that input. The hearing is closed on A.B. 384. Is there any public comment? [There was none.] The meeting is adjourned [at 6:12 p.m.].

[([Exhibit M](#)) and ([Exhibit N](#)) were submitted but not discussed and will become part of the record.]

RESPECTFULLY SUBMITTED:

Patricia Hartman
Committee Secretary

APPROVED BY:

Assemblyman Lynn D. Stewart, Chair

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Committee on Legislative Operations and Elections</u>			
Date: <u>March 26, 2015</u>		Time of Meeting: <u>4:01 p.m.</u>	
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 177	C	Carol M. Stonefield, Committee Policy Analyst	Work Session Document
A.J.R. 7	D	John Everhart, Private Citizen, Reno, Nevada	Testimony
A.J.R. 7	E	Frank Schnorbus, Convention of States Action	Ways to Amend
A.J.R. 7	F	Shawn Meehan, Guard The Constitution Project	Testimony
A.J.R. 7	G	Janine Hansen, Nevada Families; and National Constitutional Issues Chairman, Eagle Forum	"Article V Convention"
A.J.R. 7	H	Jim Sallee, Private Citizen, Las Vegas, Nevada	"The Article V Convention to Propose Constitutional Amendments."
A.J.R. 7	I	Katherine R. Morra, Private Citizen, Carson City, Nevada	Testimony
A.B. 334	J	Kristin Erickson, Nevada District Attorneys Association	Proposed Amendment
A.B. 456	K	Assemblywoman Irene Bustamante Adams	Testimony
A.B. 384	L	Assemblywoman Amber Joiner	Oral History Project
A.J.R. 7	M	Peter Hennessey, Private Citizen, Carson City, Nevada	Testimony
A.J.R. 7	N	Janine Hansen, Nevada Families; and National Constitutional Issues Chairman, Eagle Forum	News with Views Article