

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

**Seventy-Eighth Session
May 6, 2015**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Patricia Farley at 3:42 p.m. on Wednesday, May 6, 2015, 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 Patricia Farley, Chair
Senator James A. Settelmeyer, Vice Chair
Senator Greg Brower
Senator Kelvin Atkinson
Senator Tick Segerblom

GUEST LEGISLATORS PRESENT:

Assemblywoman Jill Dickman, Assembly District No. 31
Assemblywoman Victoria A. Dooling, Assembly District No. 41
Assemblyman John Ellison, Assembly District No. 33
Assemblyman David M. Gardner, Assembly District No. 9
Assemblyman Pat Hickey, Assembly District No. 25

STAFF MEMBERS PRESENT:

Michael Stewart, Policy Analyst
Kevin Powers, Counsel
Claire Clift, Secretary of the Senate
Haley Johnson, Committee Secretary

OTHERS PRESENT:

John Wagner, Independent American Party
Ed Uehling
Shawn Meehan

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Janine Hansen, President, Nevada Families for Freedom
Lynn Chapman, Nevada Eagle Forum
Pat Lynch
Jim DeGraffenreid, Nevada Republican Party
James Smack
Jack Mallory, Southern Nevada Building and Construction Trades Council
Greg Gardella
Marlene Lockard, Nevada Women's Lobby
Erin Bilbray, Nevada State Education Association
Stacey Shinn, Progressive Leadership Alliance of Nevada
Andrew Zaninovich, America Votes
Brian Reeder, Nevada Chapter of the Associated General Contractors of America
Greg Esposito
Matt Griffin, Nevada Resort Association
Brett Kandt, Special Assistant to the Attorney General, Office of the Attorney General
Dagny Stapleton, Nevada Association of Counties

Chair Farley:

I open the hearing on Senate Bill (S.B.) 510.

SENATE BILL 510: Makes various changes relating to the State Personnel System. (BDR 23-1272)

Claire Clift (Secretary of the Senate):

Senate Bill 510 is relative to a law that we passed in 2001 regarding unclassified staff moving into the classified service of the State. I have submitted my prepared testimony ([Exhibit C](#)).

SENATOR SEGERBLOM MOVED TO DO PASS S.B. 510.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR BROWER WAS ABSENT FOR THE VOTE.)

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Chair Farley:

I will now close the hearing on S.B. 510, and I will open the hearing on Assembly Joint Resolution (A.J.R.) 1.

ASSEMBLY JOINT RESOLUTION 1 (1st Reprint): Recognizes the strategic partnership and bond of friendship with, and expresses the Nevada Legislature's support for, the State of Israel. (BDR R-525)

Assemblyman John Ellison (Assembly District No. 33):

Assembly Joint Resolution 1 is meant to reaffirm the close relationship that Nevada and the United States have with the State of Israel. I have submitted my prepared testimony ([Exhibit D](#)).

We have had 37 people sign on to this first reprint of the resolution; it is an important bill.

John Wagner (Independent American Party):

Israel has always been a good friend to the United States. Israeli technology, in some cases, far exceeds our own. We need to be able to share technology for the survival of that nation and ours. Israel needs our support, even if it is just moral support. I support A.J.R. 1.

Chair Farley:

I close the hearing on A.J.R. 1 and open the Committee hearing on Assembly Bill (A.B.) 273.

ASSEMBLY BILL 273: Requires a cooling-off period before a former State Legislator may act as a paid lobbyist before the Legislature. (BDR 17-760)

Assemblyman Pat Hickey (Assembly District No. 25):

Assembly Bill 273 requires a cooling-off period before a former State Legislator may act as a paid lobbyist at the Legislature. I have submitted my prepared testimony ([Exhibit E](#)).

This bill is not retroactive. Given that this bill is being introduced at the end of the Session, this bill would not capture or include members who are serving in this body for the next Legislative Session. If passed, the bill would become law after the November 2016 election and apply to those lawmakers going forward who would know in advance that upon their election, this would apply to them.

Before you is a list ([Exhibit F](#)) of the other states that have enacted similar legislation. A significant number of states have similar cooling-off laws.

Senator Atkinson:

Can you help me understand the issue and if this has been a problem in our State?

Assemblyman Hickey:

I am not aware of any particular problems in Nevada. The purpose of this is not just to look at perception. A cooling-off period would cause Legislators to be more independent, not having the appearance or the influence upon a specific group or person who might cause the Legislators to make certain decisions in conjunction with desired employment. That is the reason why Congress has enacted federal legislation along these lines for a cooling-off period and why a number of states have followed suit.

I am not here to point out any problems. We all know our former colleagues who have become lobbyists. This reasonable bill only requires the cooling-off period to be one Legislative Session before an individual may come back and enjoy full benefits should he or she choose to become a lobbyist.

Senator Atkinson:

You said that it requires one Legislative Session. If it takes effect in 2016, is it a cooling-off period for just the folks now?

Assemblyman Hickey:

No. What this would mean for those serving in this body now is that any individual who does not return would not be affected. Because this legislation would not take effect until after the 2016 election, it would only apply to members elected thereafter.

This allows any current Legislators who have not operated under such a provision and may have such plans to pursue what they have already worked out. It also allows time for those who may seek election to know up front that this conduct is prohibited.

Senator Atkinson:

Though it does not affect this body, it would for those who run and get reelected.

Assemblyman Hickey:

Yes it would. If you were reelected in 2016 and then left in 2018, it would affect you. Are we all grandfathered in? No, but we certainly take into account that these decisions would not be entirely fair to make this late in the Session.

Senator Segerblom:

What was the vote in the Assembly?

Assemblyman Hickey:

It was unanimous.

Ed Uehling:

While this sort of bill should exist, I am wondering what teeth this may have to deal with unethical Legislators?

In Clark County, an individual ran for district attorney under this similar law, then decided to retire after he was elected and work for the union. He had arranged his job before, which was strictly prohibited under the law, and he got away with it.

It was not because he needed the money, it was a blatant manipulation of the political process to use inside information and arrange a job before he left his position. We all knew that he was working for the police union before he even retired, but nothing happened to him even though he violated the law.

Shawn Meehan:

Any bill that looks to curtail potential corruption or undue influence sounds good to me.

Chair Farley:

I close the hearing on A.B. 273 and open the hearing on A.J.R. 8.

ASSEMBLY JOINT RESOLUTION 8: Proposes to amend the Nevada Constitution to require approval of certain initiative measures by a two-thirds vote. (BDR C-916)

Assemblywoman Jill Dickman (Assembly District No. 31):

Assembly Joint Resolution 8 relates to certain measures that are placed on the general election ballot. I have submitted my prepared testimony ([Exhibit G](#)).

This is not unprecedented; some examples of supermajority requirements include: the parcel tax elections in California require two-thirds supermajority to pass; the school bond elections in California require 55 percent supermajority to pass; a referred amendment in Illinois must win a supermajority of 60 percent of those voting on the question to win; and in Florida, a referred or initiated amendment must win a supermajority vote of 60 percent of those voting on the question to win.

Chair Farley:

What was the vote coming out of the Assembly?

Assemblywoman Dickman:

I apologize; I cannot remember.

Janine Hansen (President, Nevada Families for Freedom):

I would like to share a quote with you by Alexander Fraser Tytler:

A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves largesse from the public treasury. From that moment on, the majority always votes for the candidates [or should I say ballot questions] promising the most benefits from the public treasury with the result that a democracy always collapses over loose fiscal policy

The average age of the world's greatest civilizations is 200 years; we certainly have gone past that.

I am an advocate for petitions and ballot opportunities and work hard to protect those rights. However, I am in favor of this particular resolution because America stands on the brink of a critical financial situation. Jim Clifton, who is the CEO of Gallup, reported in February that only 44 percent of Americans are working 30 hours a week or more. We also know that about 50 percent of Americans are receiving money from the government, either through social security or some other benefit. That means only 50 percent of Americans are paying the bills. This is a critical situation. In addition to that, we cannot pay over \$200 trillion in unfunded mandates for social security and Medicare. The

more we continue to increase the burden of the taxpayer, the less our economy is able to grow.

It is important to make sure that the rights of the minority, those who are actually paying the bills, are protected. This particular constitutional amendment protects the rights of those paying the bills who are sustaining not only the government but sustaining the economy.

Lynn Chapman (Nevada Eagle Forum):

We like to spend our money on things that we need and want. We must be careful with our money because it has to last. When something like this comes along, we have a better chance of protecting our money from going places that we do not want it to go.

People are hurting and do not have a lot of extra cash. I think it is wise to give the people a chance to have a say on how their money is spent.

Pat Lynch:

I support A.J.R. 8. I agree with the remarks made by Ms. Hansen. We all learned a valuable lesson last year when one organization could have established a new tax, and the Legislature had no ability to help ameliorate any negative effects. In this day of low voter turnout, that could have potentially had many negative effects.

Our team at WomensRadio and our new company, Dedicated To You, is delighted to support this resolution. This seems only fair since the same two-thirds margin vote is also required by the Legislature to pass such a tax bill.

Mr. Uehling:

This is a commonsense measure to protect us. We are living in a \$17 trillion economy. Of that, \$8 trillion is spent by the government. There are 75 million workers in the United States, which includes a person who cuts lawns for 10 hours a week. We used to have 102 million workers.

We are in an international economy, competing with other countries who are not spending 50 percent of their total production just to be governed. We are competing with countries that only spend between 10 percent and 15 percent. The people in those countries accumulate capital much faster than we can and build their economies much faster.

China adds 25 million jobs a year to its economy, which is one-third of our total workforce today. The economy is growing and wages are growing. In the last decade, wages have tripled in China. In 5 years, the Chinese will be able to come to Nevada and buy anything they want for pennies on the dollar just because they have been allowed to accumulate wealth.

The city of Hong Kong only has 7 million people. Last year, the city ended with an \$80 billion surplus because its tax rate is only about 10 percent. When economies are allowed to grow, the workers are allowed to keep the money and do not have to hand it all over to the government. That is why our government borrows money to pay the interest on the money we owe.

Jim DeGraffenreid (Nevada Republican Party):

Nevada voters have overwhelmingly approved a two-thirds requirement for taxes raised by the Legislature. Assembly Joint Resolution 8 asks that these measures at the ballot box meet the same standard the people of Nevada have indicated they favor. Remember, the people of Nevada will have an opportunity to vote on this measure before it is enacted, so they will have a voice every step of the way.

This bill speaks only to initiatives that would increase taxes. Despite opposition to this in the Assembly, all other initiative measures will still be able to pass with a simple majority. We urge your support.

James Smack:

I agree with those who have spoken before me; I support A.J.R. 8.

Mr. Meehan:

It seems as though we have a fundamental demographic problem. We have roughly 50 percent of our people not working; if they all got together, they could effectively raise taxes on those of us who work and own businesses.

James Otis, a lawyer in colonial Massachusetts, said that "taxation without representation is tyranny." With a 50 percent threshold, we can have an initiative petition raise taxes and not represent those of us who work. I believe that would be soft tyranny.

Senator Atkinson:

Everyone keeps repeating this 50 percent number. Who are we talking about?

Mr. Meehan:

I was alluding to the various numbers I have observed over the last few years in the media that reflect anywhere between 48 percent to 52 percent of the working age adults in America are not working.

Senator Atkinson:

And you are suggesting they could somehow get in to vote and raise taxes without this resolution?

Mr. Meehan:

Effectively, 50 percent of Nevadans could go to an initiative process and raise our taxes.

Senator Atkinson:

If you are going to come up with faulty statistics, I suggest you take a look at that 50 percent. Typically, when folks are underserved, underemployed and below the poverty line, they do not vote.

I doubt that statement is true.

Mr. Meehan:

I appreciate your opinion; I respectfully disagree.

Jack Mallory (Southern Nevada Building and Construction Trades Council):

While I appreciate the opinions and concerns expressed by those in support of the measure, a critical thing has to be recognized.

One of the handouts ([Exhibit H](#)) at the back of the room demonstrates the will of the people. It comes down to whether you as a Committee and the legislative body trust the people of Nevada to make a logical choice on a question of taxes. At the top of the page, the things supported by two-thirds that fit into the taxes category are all tax measures that benefit consumers. At the bottom, the questions in the tax category that do not benefit people or businesses and have failed to meet that two-thirds threshold, including Question 3 from last year's elections, are negative.

My deepest concern if this becomes law is its interference with potential growth in the future. This Legislature has passed S.B. 207, which extends bond programs for counties in the State for school construction. In the future, there is

potential with other legislation that school boards can put bond questions on the ballot. Such a bond measure would require a two-thirds vote of the people for approval. Effectively, A.J.R. 8 would be a large obstacle to the passage of bond measures, an obstacle to creating the necessary revenue to continue bond programs or to institute new bond programs for growth of needed education facilities. We will experience the same potential obstacle in 2026 if the people approve a fuel index tax initiative in 2016. This comes down to the question of do you trust the people?

Proponents of the bill spoke about the two-thirds requirement in the Legislature, and I think it is important that it exists in the Legislature. The fact of the matter is, it is a balance to the tyranny of the majority and ultimately a check on unfettered power by one party over another. To impose those types of restrictions on the public is difficult.

Each of you are only required to have a majority. In some cases, if three candidates are on the ballot, you are only required to have a plurality of the ballots cast.

Greg Gardella:

There are two sides to every coin. Earlier testimony stated that with the way the law works, it is easier for a special interest to control the process to propose and forward tax-based initiative measures. The other side of the coin is that special interest, potentially a small minority of the populace, would have the ability with the passage of this legislation to block what may very well be needed initiatives.

Beyond undermining the power of the people, it undermines your power as Legislators by blocking opportunities for you to work for or against those initiatives. If you look at the spreadsheet, referred to earlier [Exhibit H](#), only 13 of 55 initiative measures would have crossed that threshold. The yellow block of initiatives in the center essentially range from a majority to the proposed supermajority of votes. Of those measures, 6 out of 17 deal with tax or revenue-based initiatives. None of those measures would have been put forward because they all pertain specifically to the power of the people.

It seems troublesome that we are willing to empower a minority of the populace to control the whole. When statistics were brought forward in earlier testimony of 50 percent unemployment or only 50 percent working or owning businesses,

I question the validity of those statistics. I do not see how you could ever arrive at those numbers in an unbiased manner.

With that in mind, it is important to maintain the value and the importance the majority has in our populace.

I find it interesting that A.J.R. 8 only deals with tax and revenue-based initiatives. I wonder why the proponents of this measure are willing to do this for taxation but not for socially-oriented, commerce-oriented or public safety-oriented issues that are not tax-based kinds of initiatives. Not that I want any of those things to take place, but why is it that the proponents only propose this in a revenue arena?

I would ask how liberty, one of our highest ideals, is affected when the will of the minority is imposed on the majority?

Marlene Lockard (Nevada Women's Lobby):

I agree with those who have spoken before me in opposition. I would like to point out that you do not have to look any further than Washington, D.C., to see the gridlock and the havoc that a measure like this could potentially place on our government.

Attempting to explain the 60-vote cloture or how something should pass by 51 percent to the average person who does not even know that there are 100 senators is difficult. That nothing gets done is detrimental for all of us in this Country. This measure also violates the one-person, one-vote concept.

I agree with Senator Atkinson; previous testifiers imply that we have 50 percent unemployment, and that is simply not accurate.

Senator Settlemeyer:

Mr. Gardella, you provided a chart that seems to be incomplete. Is there a reason why you left off certain initiatives?

Mr. Gardella:

I was not able to complete the chart. This is what I was able to get done in a short amount of time.

Senator Settelmeyer:

I appreciate your work, but last November the court of appeals resolution passed with a 54 percent vote and the resolution to remove the cap on the taxation on minerals had a 50 percent vote. I just find it interesting that you left certain data off.

Mr. Gardella:

Was there a question, sir?

Senator Settelmeyer:

The question is why did you decide to leave off certain data and only include certain things that proved your point?

Mr. Gardella:

Including those things would not have dramatically affected my point.

Erin Bilbray (Nevada State Education Association):

The Nevada State Education Association (NSEA) opposes A.J.R. 8. I have submitted my prepared testimony ([Exhibit I](#)). The NSEA has also submitted a letter in opposition ([Exhibit J](#)).

Stacey Shinn (Progressive Leadership Alliance of Nevada):

We recognize that initiative petitions may not be everyone's favorite way of creating law, but they should remain available to the people as a tool for infrequent but necessary use. An important part of democracy, even failed initiatives spark democratic conversation and shape future policies. We are not asking to make this process easier or simpler. In fact, the recent requirement for initiative petition districts makes signature gathering and qualifying petitions more difficult.

We do not need this additional two-thirds requirement which creates a disadvantage to community organizations that cannot compete in such high-dollar campaigns. Initiative petitions have a place in our participatory democracy. Please oppose A.J.R. 8.

Andrew Zaninovich (America Votes):

America Votes is in opposition to A.J.R. 8 for the various reasons that have been stated previously.

Brian Reeder (Nevada Chapter of the Associated General Contractors of America):

We appreciate the sponsors' effort to look out for the hard-earned dollars that the public makes, but we do not agree with this method for three key reasons.

One is the cost. It is already extremely expensive to go to the ballot. You have to gather signatures and run a campaign that can cost millions of dollars. Requiring a two-thirds majority will drive up that cost even more.

Two, it could disenfranchise voters. Even popular initiatives struggle to gain a two-thirds vote. The increased cost plus the challenge of getting the two-thirds vote will discourage the use of ballot initiatives altogether. That means voters will not get a say in some of the things that matter most to them.

Finally, we agree that it puts more power in the minority of voters. Some important ballot measures to raise revenue in recent years that passed yielded positive results. For example, the fuel tax indexing in Washoe County would have failed with a two-thirds requirement. Regionally significant road projects initiated because of that tax include the widening of Moana Lane, I-580 and McCarran Boulevard, all of which the voters really wanted.

If this passes, we will never really raise revenue with the ballot again, the option will be off the table. Generating revenue for government services is a basic function of government.

Senator Brower:

You suggested that even popular ballot questions struggled to get two-thirds. Would not the definition of a popular one have overwhelming support? Is there an example of a popular ballot question that struggled to get two-thirds?

Mr. Reeder:

Popular was maybe a poor word choice, but the example would be fuel tax indexing in Washoe County.

Senator Brower:

It just seems like an oxymoron to say popular but cannot get two-thirds. If it is popular, it gets a lot of votes. Is that the definition of popular?

Senator Atkinson:

While looking at these things, it is easy to understand why voters are frustrated. When a measure goes to the ballot and passes between 56 percent and 59 percent, this resolution would make it so the majority of folks who voted for this do not matter because they failed to get 1 percent or 2 percent more.

In this Country, we have always recognized the majority. For the sake of everything in this House we recognize the simple majority of 11 to 10, but it is a majority. When you start trying to forge that to affect outcomes, we are not doing our citizens any justice. We need to be careful with this; the role of the people is what this is about.

Folks go to the ballot with the expectation to get a majority vote on specific items. With this, we are changing the bull's-eye for them, which is inappropriate.

Greg Esposito:

The way this bill is written might have unintended negative consequences. For example, the medical marijuana issue has nothing to do with raising taxes; it has to do with providing medicine and serving the public, but part of it raises taxes through the sale. Next year, the recreational marijuana measure is going to be on the ballot. It is not a direct attempt to raise taxes but will if it passes. This bill could potentially prevent things such as this from going to the ballot box.

To address Senator Brower's concern for something being popular, I ran the field program and collected signatures for the education initiative. We had well over 200,000 people provide signatures, indicating that it was a great idea. If you want to talk about popular, when 200,000 people sign on to something, though it may not be majority, it is still a popular idea. We found 200,000 people who liked it, but when it went to the polls, the residents of Nevada rejected the idea.

The system works. When presented with a bad idea that hurts the State, voters know what to do, and they will reject it. Raising the requirement to two-thirds is not going to change anything when it comes to that regard.

Assemblywoman Jill Dickman:

I would like to correct some erroneous testimony. I clarified through Legal that this resolution does not apply to school bonds or highway bonds.

The supermajority requirement here makes it more difficult to raise taxes. We are seeing more tax hikes being shifted to the ballot box, where, especially with low voter turnouts, a small number of people can impose a tax on all of us.

As we know, even the most temporary of taxes most always become permanent. If a majority of Nevadans vote to require this two-thirds supermajority to approve tax hikes, that will of the people is exactly what this is about. I ask that we give the people a chance to express their will.

Chair Farley:

I close the hearing on A.J.R. 8 and begin the work session with A.B. 24.

ASSEMBLY BILL 24 (1st Reprint): Authorizes payroll offsets to recover money related to delinquent balances on state-issued travel charge cards. (BDR 23-458)

Michael Stewart (Policy Analyst):

Assembly Bill 24 allows the State to withhold money related to delinquent balances on state-issued travel charge cards from a State officer's or employee's paycheck. I have submitted the work session document ([Exhibit K](#)).

SENATOR SEGERBLOM MOVED TO DO PASS A.B. 24.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Farley:

I close the work session on A.B. 24 to begin the work session on A.B. 60.

ASSEMBLY BILL 60 (1st Reprint): Revises provisions relating to ethics in government. (BDR 23-309)

Mr. Stewart:

Assembly Bill 462 makes various changes relating to election administration. I have submitted the work session document ([Exhibit N](#)).

Mr. Powers:

In drafting Proposed Amendment 6876, we worked with the local clerks to set up a system where if the voter is unable to sign or if the voter's signature does not match, the clerks go through the same series of steps to determine the identity of the voter.

The first step requires the voter to answer questions about personal information only the voter would know that appears on the application to register to vote. If the person does so correctly, it satisfies the identification requirement. The election board officer can obtain additional personal information from the voter to determine the identity. The final step, if those two steps do not come to fruition, has the voter provide a form of identification such as a driver's license, military identification or another form of identification showing her or his photo so that the poll worker can confirm the voter's identity.

The three-step process is the same for both when the voter is unable to sign or the voter's signature does not match. It expands the forms of identification the voter can use under those circumstances to establish identity.

Senator Segerblom:

Are there any limitations to when a precinct can go up to 3,000? Or can counties start combining precincts smaller than 1,500 to make bigger precincts?

Senator Atkinson:

I asked that question during the Committee hearing when we heard the bill initially. From my understanding, precincts cannot be combined. The precincts that go over the 1,500 cap will be split, but at the same polling place. There will just be more than one precinct there.

Senator Segerblom:

I worry that we lose all of our history if counties start combining precincts.

Senator Atkinson:

I agree. I was told that counties were not going to combine precincts.

Mr. Powers:

The increase from 1,500 to 3,000 takes place in section 6. Statute has a procedure that the county clerk would have to follow in order to consolidate precincts. This bill would not change that procedure, but under NRS 293.207, in theory the county clerks could consolidate the precincts to increase the size.

Senator Segerblom:

Is the procedure a public procedure?

Mr. Powers:

Yes. The county clerk has to follow an existing public procedure.

Senator Segerblom:

I have fought against this before, but I guess you cannot win every battle forever.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 462 WITH PROPOSED AMENDMENT 6876.

SENATOR BROWER SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR ATKINSON VOTED NO.)

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Senator Atkinson:

I will be voting no today, but I reserve my right to change my vote later. I need to check with some of the clerks on the signature aspect because I am still a little confused on that.

Chair Farley:

I close the work session on A.B. 462 and open the work session on A.B. 384.

ASSEMBLY BILL 384: Establishes the Nevada Legislature Oral History Program.
(BDR 17-1011)

Mr. Stewart:

Assembly Bill 384 establishes the Nevada Legislature Oral History Program in the Research Division of the Legislative Counsel Bureau. I have submitted the work document ([Exhibit O](#)).

SENATOR SETTELMAYER MOVED TO DO PASS A.B. 384.

SENATOR BROWER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Senator Farley:

I close the work session on A.B. 384.

With Senate Bill 434, as you recall, we adopted a conceptual amendment on April 10 and the bill was subsequently waived from the deadline. We now have the amendment ready to go. Since the amendment requested by the Committee was conceptual, I asked Committee staff to bring the amendment back for a quick review. There is no need for further action by the Committee, but I want to make sure that you have a chance to look at the amendment before it goes to the Senate floor for adoption.

SENATE BILL 434: Makes various changes relating to initiative and referendum petitions. (BDR 24-1150)

Mr. Stewart:

As you recall, on April 10, the Committee adopted the conceptual amendment described on page 2 of the work session document ([Exhibit P](#)).

When discussing S.B. 434, I would note that Brett Kandt, Special Assistant to the Attorney General, said that with the adoption of the conceptual amendment, the bill no longer has a fiscal impact.

Mr. Powers:

In preparing Proposed Amendment 527, Mr. Stewart and I worked extensively with the proponents of the bill and the Secretary of State's Office.

Our starting point is Article 19, section 5 of the Nevada Constitution which authorizes the Legislature to provide procedures that facilitate the operation of the petition process. This is the process that proposes initiative or referenda petitions for circulation.

Section 3.01 in Proposed Amendment 527, [Exhibit P](#), sets forth the legislative findings and declarations. The underlying State interests involved here are justified; providing these specific procedures makes the petition process more effective and efficient.

Proposed Amendment 527 first seeks to ensure that each statewide petition receives a threshold level of support. Before you have full-scale petition circulation, the proponent has to circulate a proposed petition and obtain 1,000 signatures to show threshold-level support to discourage frivolous petitions. Those 1,000 signatures do not have to be obtained from the four petition districts; they can be obtained in any balance from any of the four petition districts. Unlike the overall petition process, the signatures do not have to be equally divided.

That is the first new proposed addition to the petition process. In most instances, the proposed petition is not subject to challenge in any judicial or administrative proceeding. All the challenged petitions will have to wait until the petition is formalized after the preliminary, proposed petition process has ended.

Proposed Amendment 527 seeks to ensure that the voters receive accurate, reliable, truthful and helpful information regarding each petition. Sections 4.5 and 6.5 create new procedures for establishing the title and description of effect. The idea is to make the description of effect information so accurate that it is not misleading or inflammatory in any way. Section 10 also requires the Secretary of State to prepare a handbook for proponents and circulators dealing with the petition process that provides more information to the voters and those proponents who are seeking to advance petitions.

Sections 12 and 15 clarify certain provisions dealing with the single-subject requirement. The goal here is to prevent confusing, complex or complicated multisubject proposals and give voters a clear and definite choice by preventing confusion, inattention or deception. The voters will be presented with a meaningful opportunity to consider the merits and consequences of each

proposal separately without being confused, misled or manipulated by multisubject proposals.

Finally, Proposed Amendment 527 deals with competing measures where an initiative petition proposes a statute or an amendment to a statute that presents a conflict during session when the Legislature proposes a competing measure that would go on the ballot. Section 11.5 provides a legislative interpretation of a competing measure proposal and how it would be defined by the Legislature. Section 2.5 provides notice to the voters on the ballot that only one of those competing measures can be enacted into law, and the competing measure that receives the highest number of affirmative votes will be enacted.

Matt Griffin (Nevada Resort Association):

I thank Mr. Powers and Kevin Benson from the Attorney General's Office who both put an extensive amount of work into the amendments that this Committee approved.

I would like to briefly point out the policy behind these changes to the petition process. I have submitted my prepared testimony ([Exhibit Q](#)).

I note that the amendment removes one provision from the former version of the bill. This provision required paid signature gatherers to notify the Secretary of State's Office of their paid circulator status before circulating for signatures and every month thereafter while active. That provision has been withdrawn due to conversations with proponents of the bill.

Article 19 exists for the people in their own exercise, subject to their own will, to change the laws of Nevada either statutorily or by constitution. It does not exist so that I can wake up on Saturday morning, have an idea and file a petition the following Monday.

This inserts into the process what many other states—in fact, almost all other states—have done by providing the resources of the government either through the executive branch or the judiciary branch. It allows the people drafting and filing petitions to have a better chance to be successful on the ballot.

You will all recall a petition was circulated that got over 200,000 signatures in the 2011-2012 election cycle. It came before the Legislature, and the Legislature enacted an alternative to that petition. The petition then went to

court on the alternative and did not get invalidated by the Nevada Supreme Court for violating a description of effect rule for months afterwards. The petition was filed a little over a year before the invalidation.

Those proponents had spent seven-plus figures pursuing that petition, but it never got on the ballot because of the description of effect challenge. This bill gives proponents the opportunity to have an accurate and useful description of effect before they ever get to the circulation phase and before they ever have an opportunity to present their petitions to the voters.

This does not change the Nevada single-subject rule, it only clarifies and provides guidance to what is actually permissible under the single-subject rule. Some discussion among proponents and opponents of the petition concerns whether: the single-subject rule is based upon an unpublished First Judicial District Court opinion; an individual can propose a petition that provides a dedication for a single purpose; or that dedication has to make some broad purpose, such as the General Fund.

This amendment is designed to allow proponents to propose fixes to specific problems they see. For example, if you think that classroom size reduction should be the focus of all the funds of your revenue petition, you may make a dedication to classroom size reduction. It allows the petition proponent to make a specific dedication; other than that it is not designed to change any of the jurisprudence existing in Nevada law.

The changes made to this apply to all petitions statewide—initiative petitions as well as referenda petitions and constitutional provisions. It does not apply to local ballot measures, but it does apply to all state measures regardless of the content of those measures and the subjects.

Brett Kandt (Special Assistant to the Attorney General, Office of Attorney General):

The proposed amendment accurately reflects the intent in the procedures that we envisioned in the conceptual amendment.

Chair Farley:

I will take the amendment to the Senate floor so it can be adopted.

Senator Atkinson:

What happens now?

Chair Farley:

We made this amendment conceptually on the Senate Floor and passed it. I brought it back to the Committee to make sure that everyone heard and understood it before we returned it to the floor. There is no action.

Senator Atkinson:

Is S.B. 434 on the Senate floor?

Chair Farley:

It is not scheduled yet.

Senator Settelmeyer:

We already voted this bill out once with a conceptual amendment. I believe that our Chair chose to bring it back to show Proposed Amendment 527.

Chair Farley:

I open the hearing on A.J.R. 10.

ASSEMBLY JOINT RESOLUTION 10 (1st Reprint): Proposes to amend the Nevada Constitution to revise provisions relating to the compensation of certain elected officers. (BDR C-1068)

Assemblywoman Victoria A. Dooling (Assembly District No. 41):

Assembly Joint Resolution 10 proposes to amend the Nevada Constitution to require that the Legislature establish by law the Citizens' Commission on Salaries for Certain Elected Officers. I have submitted my prepared testimony ([Exhibit R](#)).

Assemblyman David M. Gardner (Assembly District No. 9):

There are 24 states that have done this. It is an idea that has circulated the Country by liberal and conservative states to get the politics out of pay. It proposes to bring the discussion to the people who can assess the data and then give the option to go up or down. California has the highest-paid legislature in the Country. The state paid about \$120,000 each to legislators, but it was lowered to about \$90,000 a couple years ago.

If you look at the places that have done this, the commission is taken very seriously. The commission looks at the facts and where the economy is going along with other factors before the proper decision is made.

This good idea will take the politics out of the decision and give us the chance to have much-needed conversation.

Senator Atkinson:

This seems like an idea heard some time ago. Does this just include Legislators or all elected officials?

Assemblyman Gardner:

The bill, as written, includes the Executive, Judicial and Legislative Branches. A conceptual amendment would include county offices as well.

Senator Atkinson:

So the county commission, recorder, treasurer and all that?

Assemblyman Gardner:

Yes.

Senator Atkinson:

Would the commission study those by performing a human resource class and compensation-type study?

Assemblyman Gardner:

Yes. The commission would look at other states, consider the amount of days that we work throughout the year and consider various models.

Senator Atkinson:

The study would probably show that Legislators in Nevada working 120 days while only getting paid for 60 days probably breaks some type of federal law.

I am looking at the votes in the Assembly, and it is split along party lines with the Democrats voting no; I have to admit I do not understand why. I will talk to them, but have any of them talked to you? I just want to know some of the issues.

Assemblyman Gardner:

Actually, they did not talk to me. Several Democrats initially supported the bill, but when the vote came to the floor, many of them voted no. I was shocked because they supported the idea in our conversations.

Assemblyman Gardner:

This proposal is similar to the one recently passed in Arkansas. It is the most recent form of a commission. I figured that Arkansas looked at other states and decided to run it as a constitutional amendment. That is what I based it on.

Senator Settlemeyer:

I appreciate that, but I would like to follow up off-line with you because I am concerned with allowing elected officials the ability to appoint people to determine their own salaries. I see a potential conflict that I am worried about.

Assemblyman Gardner:

I am happy to have that conversation.

Chair Farley:

I like the idea of forming a commission because this is really hard for people who work—which is who we are; we are a citizen legislature. It is civic service, but the cost should be compensated. We are taking people out of full-time employment to be at the Legislature, and it is difficult.

Compensation should be fair and equitable. Part of the problem, most voters would agree, is that we need to get more qualified people in front of the voters. There is a lot of misconception about how much we make. I constantly receive emails telling me to give back my paycheck, but I do not have one to give back.

My costs are covered, so it is not that people are doing this for the money. It should never be about the money, but it should be easy to attract and retain good people to represent the State of Nevada.

Assemblyman Gardner:

Several states have voiced that exact same reason for these commissions. Some have not had a commission and made it so that legislator pay is tied to the median income of the state. They do that so they can make sure that if the average Jane or Joe wants to run for office, she or he can do so without losing any money in the process. That is just another option. Like Senator Settlemeyer said, there are many different ways to do this, and we are open to those discussions.

Ms. Hansen:

We have long supported Legislators being paid for their service. In order to maintain a citizen legislature, we feel that it is important for Legislators to be paid. Citizens cannot afford to leave a job and be here if they are not paid.

We agree that it would be better if elected officials were not appointing the commission. Our Legislators have suffered under the current conditions. If there is a better way to do this, then we are in favor, especially if it is more likely to get passed by the voters.

Ms. Chapman:

We support this bill. I like the 120-day cutoff, but knowing that you are only getting paid for 60 of those days is not right. You have my absolute support. The only part I am worried about is the conflict of interest that Senator Settelmeyer brought up.

Dagny Stapleton (Nevada Association of Counties):

As Assemblywoman Dooling mentioned, counties support the creation through A.J.R. 10 of an independent commission to review salaries, including county commissioners and county-elected officials. The conceptual amendment to the bill would add counties into the consideration of the commission as well. County-elected officials support this for all the same reasons that were articulated by the bill sponsors. Salaries for county-elected officials are set in statute. Our board has had many conversations about this issue.

The Sheriffs' and Chiefs' Association, the Recorder's Association of Nevada, and the District Attorneys Association asked us to indicate their support on the record.

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Chair Farley:

I close the hearing on A.J.R. 10 and adjourn the meeting at 5:46 p.m.

RESPECTFULLY SUBMITTED:

Haley Johnson,
Committee Secretary

APPROVED BY:

Senator Patricia Farley, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	5		Attendance Roster
S.B. 510	C	2	Claire Clift	Prepared Testimony
A.J.R. 1	D	2	Assemblyman John Ellison	Prepared Testimony
A.B. 273	E	7	Assemblyman Pat Hickey	Prepared Testimony
A.B. 273	F	7	Assemblyman Pat Hickey	State Rules Governing Lobbying Chart
A.J.R. 8	G	6	Assemblywoman Jill Dickman	Prepared Testimony
A.J.R. 8	H	1	Greg Gardella	Ballot Question Chart
A.J.R. 8	I	1	Erin Bilbray	Prepared Testimony
A.J.R. 8	J	1	Nevada State Education Association	Letter of Opposition
A.B. 24	K	1	Michael Stewart	Work Session Document
A.B. 60	L	1	Michael Stewart	Work Session Document
A.B. 94	M	15	Michael Stewart	Work Session Document
A.B. 462	N	22	Michael Stewart	Work Session Document
A.B. 384	O	1	Michael Stewart	Work Session Document
S.B. 434	P	28	Michael Stewart	Work Session Document
S.B. 434	Q	2	Matt Griffin	Prepared Testimony
A.J.R. 10	R	8	Assemblywoman Victoria A. Dooling	Prepared Testimony