

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

**Seventy-Eighth Session
February 11, 2015**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Patricia Farley at 3:32 p.m. on Wednesday, February 11, 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

COMMITTEE MEMBERS ABSENT:

Senator Tick Segerblom (Excused)

GUEST LEGISLATORS PRESENT:

Senator Joyce Woodhouse, Senatorial District 5

STAFF MEMBERS PRESENT:

Michael Stewart, Policy Analyst
Brenda Erdoes, Legislative Counsel
Linda Hiller, Committee Secretary

OTHERS PRESENT:

Wayne Kodey
Ray Bacon, Nevada Manufacturers Association
Amanda Schweisthal, Retail Association of Nevada
Tray Abney, The Chamber
John Griffin, Amazon.com; Zappos.com

Carole Vilardo, Nevada Taxpayers Association
Mike Cathcart, City of Henderson
Justin Harrison, Las Vegas Metro Chamber of Commerce
Pat Sanderson, Nevada Alliance for Retired Americans
Dagny Stapleton, Deputy Director, Nevada Association of Counties
John Wagner, State Chairman, Independent American Party
Joe Gloria, Registrar of Voters, Clark County
Sue Merriwether, Clerk-Recorder, Carson City
Deanna Spikula, Senior Deputy, Voter Registration and Elections Office,
Washoe County
Leora Olivas, Director, Silver State Voices

Chair Farley:

I will open the meeting with Senate Joint Resolution (S.J.R.) 4, sponsored by Senator Joyce Woodhouse.

SENATE JOINT RESOLUTION 4: Urges Congress to enact the Marketplace Fairness Act. (BDR R-98)

Senator Joyce Woodhouse (Senatorial District No. 5):

The Marketplace Fairness Act is a proposed federal law that would allow state governments to collect sales taxes from sellers with no physical presence in their states. These sellers, most frequently catalog companies and Internet vendors, would be required to collect and remit sales taxes to the states where their customers reside, just as local retailers must already do. It is time our local businesses stop serving as showrooms for companies that do business online. I have submitted my written testimony ([Exhibit C](#)).

Senator Settlemeyer:

I voted for this last time and agree with the concept. From my conversations with State taxation authorities, I have heard we could accrue as much as \$20 million to \$40 million in added tax income from implementing this measure. When we sponsored it before, we estimated the added tax income to be hundreds of millions of dollars, but that is not accurate today. One reason is the biggest players like Amazon have already successfully negotiated with Governor Brian Sandoval to collect taxes from their online sales.

Senator Woodhouse, you said this measure was previously passed by the U.S. Senate but not the U.S. House of Representatives. How do you think we can get this measure through Congress this time?

Senator Woodhouse:

We need to keep getting the message to Congress that we want this for our State. Many states are doing similar resolutions to urge their congressional members to address this issue. We keep in touch with the Nevada office in Washington, D.C. All we can do is keep trying. One thing we might do, aside from sending the resolution to Washington when it passes, is to ask some of today's testifiers to also speak to the Nevada Congressional Delegation.

Chair Farley:

Just as important as properly collecting our tax dollars is protecting our small businesses. Being a small business owner with many friends in the retail business, I know this issue is key to them. Especially with the mom-and-pop businesses.

Wayne Kodey:

My wife, Geri, and I purchased Casey's Cameras in Las Vegas in 1995. The original owner, Dick Casey, had a great reputation for his knowledge of antique and used cameras. I shared the love of photography and cameras, having retired after 25 years as a newspaper photographer. We expanded the store from a mom-and-pop operation to four full-time and six part-time employees. We stocked a full line of Canon and Nikon cameras and lenses, both amateur and professional grade. We also had lesser brands and a full line of photographic accessories.

Our store was full service, but with the emergence of the Internet, customers would use us as a showroom to examine our cameras and then go buy the cameras on the Internet. This hurt our business. Our employees were knowledgeable about photography and cameras, and we offered that expertise to our customers as a value-added service. If customers knew nothing about specific cameras, we would spend time with them to make sure they were well-versed on the camera when they left.

Sometimes people would walk in with cameras bought online or received "as a gift," and we were expected to teach that person about the camera. This happened often. It seemed like the assumption was that this knowledge was

free for the taking from our staff, even though the camera was not purchased from our store.

The pricing on the Internet made matters worse. Online sellers had no overhead and could cut prices to the bone. Eventually, the manufacturers caught on to this and with help from a ruling by the U.S. Supreme Court, manufacturers were able to establish minimum resale prices. That leveled the playing field for us on the cost of the camera. What hurt us was that a \$7,000 camera cost the same all over the Country. We would lose sales to customers who chose to buy their cameras online and thus not pay the 8.1 percent sales tax. It was an advantage I could not overcome, and it eventually led to us selling our store 2 years ago, taking early retirement. We support S.J.R. 4.

Ray Bacon (Nevada Manufacturers Association):

When this issue came up, the manufacturers were deeply involved in crafting the rules and helping states come up with a uniform agreement to limit the number of different sales taxes that we have. Some states have hundreds of sales taxes because they allow individual jurisdictions to implement taxes. We wound up getting involved from the manufacturing standpoint because a lot of parts that companies make are shipped across state lines, which creates confusion and adherence to different rules. This can be a nightmare.

Regarding Senator Settelmeyer's question, all our U.S. House of Representatives in Washington, D.C.—Crescent Hardy, Mark Amodei, Joe Heck and Dina Titus—have voted for this measure in this body. Since the matter died in the U.S. House of Representatives last time, we can hope our representatives will influence others to vote with them.

Amanda Schweisthal (Retail Association of Nevada):

We support S.J.R. 4 and testified in favor of similar legislation, S.J.R. No. 5 of the 77th Session. This measure does not create a new authority on taxation. It only urges the U.S. Congress to require online retailers to charge the same rate brick-and-mortar stores charge in our State. If Congress were to pass the Marketplace Fairness Act, then a loophole that Internet retailers are taking advantage of to gain an automatic 5 percent to 10 percent price advantage to physical stores would be gone. Those online stores would be required to collect those taxes that are already due.

Technology is changing the way businesses operate. In 2012, the growth rate of online purchases was nearly 15 percent compared to 2.8 percent in brick-and-mortar stores. We require our local businesses to collect taxes, and Internet sellers must change their business plans to do so.

Amazon and its subsidiaries collect Nevada sales taxes by choice. Our physical Nevada businesses do not have that choice. Online companies should have to follow the same laws and thus compete on a level playing field for our small local businesses.

Marketplace fairness is more than a matter of unfair competition. The lack of it also robs the State of revenue needed to pay for schools and police. In existing and upcoming budget conversations—and with the continued importance of properly funding education—it is imperative to close this loophole and allow the State to collect the sales tax it has not been receiving.

If the Marketplace Fairness Act passed and all online retailers were required to pay the same taxes as brick-and-mortar stores, it is estimated that Nevada could collect millions of dollars in State tax revenue. Customers want to buy locally, and when local costs are equal, the local stores can more than compete, grow their businesses and grow our State.

Tray Abney (The Chamber):

We support this resolution. This is not a tax increase. Customers are supposed to be paying sales tax, and this brings fairness to our brick-and-mortar stores. We know the economy is moving in this direction. There is a sales tax shift as our economy is more service-based than goods-based. Our economy is going more online now, and there will be more Internet purchases. We want to make sure brick-and-mortar business owners in Nevada are on a level playing field with online businesses.

John Griffin (Amazon.com; Zappos.com):

We support S.J.R. 4. Amazon has an agreement with the Governor and the Department of Taxation to voluntarily collect sales tax. Zappos was originally based in Henderson and is now based in Las Vegas. That company also collects and disperses sales taxes since coming to Nevada. The passage of federal legislation to put other Internet retailers on the same footing as those online stores and also brick-and-mortar businesses is something we support.

Carole Vilardo (Nevada Taxpayers Association):

I support S.J.R. 4. We can do something on a State level. If it is a state-only solution, we do not get the same revenue we could get from a federal solution. We are contacting our Congressional Delegation about this issue.

Mike Cathcart (City of Henderson):

We support S.J.R. 4 for all the reasons already mentioned by others. We want a level playing field for all businesses in the State.

Brick-and-mortar businesses bring a lot to a community. In southern Nevada, there are the new Downtown Summerlin and Town Square Las Vegas malls in Las Vegas, and Galleria at Sunset mall in Henderson—these attractions make a community vibrant.

From the City of Henderson's standpoint, the erosion of our revenue sources is a concern. We need to make sure we can provide critical services like parks and recreation, public safety and public works into the future. For that we need stable revenue sources.

Justin Harrison (Las Vegas Metro Chamber of Commerce):

We support S.J.R. 4. The increase in Internet commerce is eroding the State's tax base. This measure will help stabilize the playing field between brick-and-mortar businesses and Internet businesses. We are happy to discuss this with members of our Congressional Delegation.

Pat Sanderson (Nevada Alliance for Retired Americans):

I support S.J.R. 4.

Dagny Stapleton (Deputy Director, Nevada Association of Counties):

We support S.J.R. 4 for the aforementioned reasons.

John Wagner (State Chairman, Independent American Party):

I do not support S.J.R. 4. This should be labeled the Internet tax bill because that is exactly what it is. We have heard much about this over the years. Everyone wants to tax the Internet.

If you have a store that does a lot of out-of-state business, the store owners will have to pay sales tax, but what are they getting out of it besides grief? They have to be bookkeepers and know where to send the money, but do they

get fire protection or police protection or any of the things the brick-and-mortar stores here get? The answer is no. All they get is the grief. They are the collectors.

When you do buy online, you have to pay shipping charges, so that should balance out to some degree what the sales tax covers. If you buy locally, you have the convenience of getting your item now and you then have the right to take the item back for warranty purposes. Purchases made on the Internet do not have this convenience. For that reason, it is not fair to tax someone out of state. Our retailers here should do a better job of retailing their product.

Senator Settlemeyer:

Good retailers in Nevada such as Cabela's, Best Buy, Wal-Mart, Zappos, Target, Amazon and many others are already collecting Internet taxes. This is Nevada law. You are supposed to be either paying or collecting the sales tax. I have the only constituent who actually called the Department of Taxation and said he had bought some cigarettes online and wanted to do his duty and pay the tax. At that time, he was told the form was on the Internet, but in actuality it did not exist. No one in the State's history had ever voluntarily paid taxes for anything purchased on the Internet.

Senator Woodhouse:

I am glad we have named on the record the online State businesses that are paying their taxes. We hold them up to others that do not pay the taxes they should be paying, and we encourage these nonpaying businesses to do so. We will continue to work on our Congressional Delegation to pass the Marketplace Fairness Act to make sure everyone pays the taxes in a fair and equitable manner.

Chair Farley:

I will close the hearing on S.J.R. 4. We have a presentation from local election administrators about implementation of Nevada elections laws.

Joe Gloria (Registrar of Voters, Clark County):

I have a presentation with an overview of our election processes in Clark County ([Exhibit D](#)). Clark County has 840,000 active registered voters. In our 125,000-square-foot warehouse, we house 4,500 voting machines and more than 10,000 pieces of peripheral support equipment worth more than

\$30 million. We have had up to 352 polling places on Election Day, and we have a full-time staff of 32.

Nevada is a high-profile State during elections since it is a battleground State and often a swing State. When we have Presidential elections, many observers come to Clark County. It is not unusual to have 300 to 400 people observing our voting activity on Election Day. We get nationwide exposure, especially when U.S. Senator Harry Reid is on the ballot.

We are well known, not only in Nevada but in the Southwestern states and nationwide, for implementing technology that streamlines our processes and improves the way we serve voters in Clark County. Our Website, <<http://www.clarkcountynv.gov/VOTE>>, is as transparent as possible. Voters can log on to the site and follow activity for early voting. We get calls from individuals who track our activity to make sure we are balanced and accurate, based on information these individuals can find on the Website.

We also offer information on the candidates who are elected and how the election process works. Our voter registration services allow voters to perform several transactions over the Internet rather than come into the office and fill out a paper form. We are most proud of our early voting program, which saves money because it is the most efficient way to process voters.

We take full advantage of early voting in Clark County. In the 1990s, when rapid growth in Clark County was such that potential polling sites could not be found, we implemented a mobile voting program. We did this by hitching a trailer to a truck to create a stand-alone site complete with electrical power. With these mobile voting stations, we can service voters in every corner of the County.

Since 2000, we have consistently had more voters voting early than on Election Day or through the mail. In 2012, 63 percent of the voters were early voters. We expect that to increase in the upcoming 2016 Presidential election.

Some of our challenges in Clark County include the natural maintenance and need for keeping our advanced technology current. Many of our existing systems need upgrading, including our voter registration system, the election management system; the tabulation system and ballot definition system used to

program our machines for Election Day and early voting; and our absentee ballot system.

All our polling places still use a paper roster on Election Day. The voting machines we use have been effective and functional. We plan to make it through the 2016 election with our inventory of machines. However, they are aging. The technology in these machines is not being produced anymore. The manufacturers for the central processing units which are the backbone for our hardware are sending us shelf stock. The manufacturers have not indicated to us they have a concern yet, but if they are not making those parts anymore, eventually that shelf stock will run out. Those systems need to be upgraded.

The very integrity of an election depends on the accuracy of how we process voters. There is new technology available involving the use of a poll book. The implementation of a poll book is the most accurate way to process voters on Election Day, facilitating more opportunities for vote centers.

Integration with the State's Department of Motor Vehicles (DMV) is also a big challenge for us. On page D6 of my presentation, [Exhibit D](#), you can see that in 2010 we received more than 37,000 paper registrations from the DMV. Inputting that information from a piece of paper into the computer system requires our staff to manually enter the numbers into the system. This increases the potential for human error.

The change of address forms also require staff input. In 2012, we had more than 21,000 of these changes to be added to voters' records. In total, that is almost 60,000 applications that need to be entered into the system manually. This data could easily be transferred electronically with new technology, saving time, money and errors. The Secretary of State (SOS) knows this is a concern. The SOS works closely with the DMV, so it is not a matter of being able to have these processes work for all our offices in the State. It is more a matter of them being given the instruction to do so and being allocated the resources to make it work for each county.

Resources are definitely a concern. We need to know where the resources are going to come from to provide and maintain all the technology we use in our office to service voters. Our machines are aging, and we need resources to start replacing and upgrading these systems.

With the possible implementation of a voter ID bill, we will have to administrate whatever the Legislature decides. We are concerned there will likely be an increase in provisional ballots, especially in the first round. It is going to be the biggest election we could possibly have. I have been calling it the perfect storm because we will have two initiatives on the ballot that will definitely bring voters out, and it is possible that Senator Reid will be on the ballot, which always brings voters out.

With the increase in provisional ballots, I suggest we increase from 6 working days to 9 days allowed for us to canvass. As it is, we manually enter in all those provisional ballots. In Clark County, we barely make it in time to present that canvass to our Board of Commissioners, which then gives it to the SOS.

We support sample ballots being submitted electronically to those who choose that option. However, those email addresses should be added to the confidential option. Voters can opt to not have their physical address and phone number provided if they submit a written request to do so. The email address should be included in that option so voters do not opt out of using the electronic sample ballot for privacy reasons.

We are paying an exorbitant amount of money to put notices into classified advertising three and four times prior to an election. We can provide that information on the Internet so those who want to get at it can access it easily. There is a definite potential for a cost-savings by reducing the numbers of times we have to put that information into a publication.

Sue Merriwether (Clerk-Recorder, Carson City):

I have more than 30 years of experience working in the election process. I have been involved in the State's Motor Voter implementation and the federal Motor Voter implementation, allowing people to register to vote while they are completing DMV business online. I have seen the transition from punch card voting to electronic voting.

In 2014, we purchased electronic poll books (EPB) for implementation in Carson City. We are the first and only county in the State to use this technology. Several counties are using computers and laptops during the early voting process, but they are not as fast and easy to use as the EPBs, which are easy-to-set-up computer tablets. Voter data is loaded on to each tablet and a

backup is stored on a flash card. There is no more printing or binding of paper rosters.

Because the voter's history is stored on a server connected to the EPB, these devices are perfect for vote centers. If a voter checks in to vote at one polling location, the software will indicate that the person voted. He or she will then not be allowed to vote again at either that or another location. The EPB tablets are cheaper than a laptop, efficient, loved by election workers, save money and process voters in half the time.

I have submitted my written testimony ([Exhibit E](#)).

Deanna Spikula (Senior Deputy, Voter Registration and Elections Office, Washoe County):

Washoe County has the second-largest number of registered voters in Nevada. We have approximately 225,000 active registered voters. In 2016, we expect that number to grow to more than 240,000 based on the numbers of voters during the 2012 Presidential election, which was 241,000 voters.

We have six full-time staff members, including the Registrar of Voters. Aging equipment is also a concern for our agency. We perform preventative maintenance on our equipment, which was implemented in 2004, but this takes time and resources. Our older software runs on Windows XP, which is now an unsupported operating system. It will have to be replaced.

We are working on one of our voter registration maintenance processes, something we do continuously during nonelection years. We obtain information from the National Change of Address program within the U.S. Postal Service concerning voters who have moved. We send postcards to these individuals requesting updated information. We also work with the SOS and the nonprofit Electronic Registration Information Center (ERIC) program, which is a crossstate and crossjurisdiction list that we run against our database. Through ERIC, we mail update cards to voters to ask if they are still in our County. If not, we help that person reregister somewhere else. Through ERIC we received information in four main categories: crossstate movers, in-state movers, in-state duplicates and deceased voters.

Online voter registration is gaining popularity in Washoe County. We are thankful to have it because it eliminates the paper process and streamlines the

registration process for voters and for us. Since the voters enter their contact information, there are fewer data entry errors from our end.

There has been talk of possible legislation for opting out of a sample ballot, and we do have some concerns about that. We prefer flexibility in the ability to transmit that information to the voters. If it is precinct-specific to each voter, we do not have a way to automate that process. We have to have staff members email individual voters their sample ballots. If we could email the voter a link to our Website or the SOS Website, it would then be two more clicks for him or her to get to our Website. Voters could enter their last names and dates of birth, and their sample ballots and polling information would come up. For us to email a letter to each address individually is much more labor-intensive and is a manual process.

I have submitted a document with statistics, concerns and goals for our agency ([Exhibit F](#)).

Leora Olivas (Director, Silver State Voices):

My group, Silver State Voices, works with communities to conduct voter registration and to educate voters about the election process. We are also interested in improving the election system. In our research with many election officials, one issue emerged: investing in modernizing our aging technology. I encourage this Committee to focus on investing in updating our aging machines statewide. I have submitted my written testimony ([Exhibit G](#)).

Mr. Sanderson:

I want you to please remember your senior citizens. I am getting older and I have tremors, so when I try to write something out, people may have a hard time reading my writing.

Regarding voter ID, I was born and raised in this State and have lived here all my life. I have always voted. I think it is crazy to have to get a voter ID if you have voted. I just hope you take into consideration the problems senior citizens would have. If you approve a voter ID, then please have it cost nothing so seniors can get it. Have it for the next election, not this one.

No matter what, we want as many people voting as possible. I never thought I would be in this position, talking about seniors and having things hard and not

Senate Committee on Legislative Operations and Elections
February 11, 2015
Page 13

being able to get around. Commonsense. Be a true Nevadan and remember what the heck it means to the importance of voting.

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Legislative Operations and Elections
February 11, 2015
Page 14

Chair Farley:

I will close the meeting of this Committee at 4:37 p.m.

RESPECTFULLY SUBMITTED:

Linda Hiller,
Committee Secretary

APPROVED BY:

Senator Patricia Farley, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	6		Attendance Roster
S.J.R. 4	C	7	Senator Joyce Woodhouse	Written Testimony
	D	9	Joe Gloria	Legislative Operations and Elections Committee Briefing
	E	4	Sue Merriwether	Written Testimony
	F	1	Deanna Spikula	Written Testimony
	G	1	Leora Olivas	Written Testimony