

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

**Seventy-Eighth Session
February 18, 2015**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Patricia Farley at 3:28 p.m. on Wednesday, February 18, 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, and to Room 128, Greenhaw Technical Arts Center, Great Basin College, 1500 College Parkway, Elko, 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:

Senator Pete Goicoechea, Senatorial District No. 19

STAFF MEMBERS PRESENT:

Michael Stewart, Policy Analyst
Brenda Erdoes, Legislative Counsel
Jered McDonald, Senior Research Analyst
Linda Hiller, Committee Secretary
Haley Johnson, Committee Secretary

OTHERS PRESENT:

JJ Goicoechea, Chair, Sagebrush Ecosystem Council; Chair, Board of Commissioners, Eureka County
Jake Tibbitts, Natural Resources Manager, Department of Natural Resources, Eureka County

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Steve Walker, Carson City; Lyon County; Douglas County; Storey County

Neena Laxalt, Nevada Cattlemen's Association

Kandis McClure, Southern Nevada Home Builders Association

Bevan Lister, Vice President, Nevada Farm Bureau Federation

Dagny Stapleton, Nevada Association of Counties

Jesse Wadhams, Las Vegas Metro Chamber of Commerce

Floyd Rathbun, F.I.M. Corporation

Pat Sanderson

Leo Drozdoff, Director, State Department of Conservation and Natural
Resources

Tony Wasley, Director, Department of Wildlife

Jim Barbee, Director, State Department of Agriculture

Kyle Davis, Nevada Conservation League

Jim Falk

Cliff Gardner, Rural Heritage Preservation Project

John Wagner, Nevada Committee for Full Statehood

Bonnie McDaniel

Alisa Bistrek

Linda Sanders

John Carpenter

John Mayer, President, Board of Trustees, Washoe County School District

Angie Taylor, Vice President, Board of Trustees, Washoe County School District

Lindsay Anderson, Washoe County School District

Tray Abney, The Chamber

Jessica Ferrato, Nevada Association of School Boards

Scott Gilles, City of Reno

Mary Pierczynski, Nevada Association of School Superintendents

Yolanda King, Clark County

Lee-Ann Easton, Administrator, Division of Human Resource Management,
Department of Administration

Scott Sisco, Deputy Director, Support Services, Department of Corrections

Kevin Ranft, American Federation of State, County, and Municipal Employees
Local 4041, AFL-CIO

David Byerman

Janine Hansen, Nevada Families for Freedom

Chair Farley:

Three hearings are on the agenda today. We will begin with
Senate Joint Resolution (S.J.R.) No. 5.

SENATE JOINT RESOLUTION 5: Expresses support for the 2014 Nevada Greater Sage-Grouse Conservation Plan developed by the Sagebrush Ecosystem Council and urges the United States Fish and Wildlife Service not to list the greater sage-grouse as endangered or threatened under the Endangered Species Act of 1973. (BDR R-480)

Jered McDonald (Senior Research Analyst):

I provided services to the Legislative Committee on Public Lands during the 2013-2014 interim. The Chair of the Public Lands Committee during the interim was Paul Aizley, and in his absence I will briefly summarize and describe some of the testimony received during the interim regarding the greater sage-grouse.

During each of the Committee's six meetings throughout the interim, the Committee received testimony concerning the effects that the potential listing of the sage-grouse as an endangered species would have on Nevada. The Committee heard from concerned citizens, ranchers, conservationists, the mining industry, energy developers, local government representatives and other members of the public. Based on that testimony, the Committee unanimously voted to recommend S.J.R. 5 be sent to the Legislature for consideration during the 78th Legislative Session.

JJ Goicoechea (Chair, Sagebrush Ecosystem Council; Chair, Board of Commissioners, Eureka County):

In 2012, Governor Brian Sandoval issued Executive Order 2012-09 which established the Greater Sage-grouse Advisory Committee and led to Executive Order 2012-19, which established the Sagebrush Ecosystem Council.

The Sagebrush Ecosystem Council is comprised of nine voting members from across the State. We represent various stakeholders, including the general public, conservation, energy, mining, local governments, agriculture, tribes and grazing.

It has been a long process to develop a conservation plan for the State of Nevada. Our first task was to decide what exactly the Council was going to accomplish. We had to decide if we were going to save the sage-grouse, save the habitat, concentrate on what works specifically for Nevada or do all three.

Our mission statement to protect the sagebrush ecosystem is key to the sage-grouse, all the while protecting economic interests of Nevada.

My other role is Chair of the Eureka County Commission. I fully support this resolution brought forward without amendments. But Eureka County feels we could amend this to make it a little bit stronger resolution.

Jake Tibbitts (Natural Resources Manager, Department of Natural Resources, Eureka County):

When Eureka County provided testimony to the interim Legislative Committee on Public Lands in Ely, we pointed out that any conservation plan to manage sage-grouse in the State needs to be as close to home as possible.

This proposed amendment ([Exhibit C](#)) expresses our concerns with the federal land management agency regulatory mechanisms that are being put in place. It provides stronger language to the resolution to make our intent clear.

In the second paragraph, we have pointed out that the reason the U.S. Fish and Wildlife Service made the determination in 2010 that the sage-grouse was warranted for listing as an endangered or threatened species was due to a lack of regulatory mechanisms.

In the fourth paragraph, the proposed amendment reads that in 2011, the Bureau of Land Management (BLM) and the U.S. Forest Service began a process to amend the agencies' land use plans to strengthen greater sage-grouse conservation measures. The purpose is so that they could have more adequate regulatory mechanisms in place with hopes of holding off listing.

In paragraph 8 of the proposed amendment, we point out that the Sagebrush Ecosystem Council not only directed the preparation for the 2014 Nevada Greater Sage-Grouse Conservation Plan but adopted the Plan we have today.

We propose this language to make it clear that the Plan was to be provided as an alternative to the BLM and the U.S. Forest Service managing the sage-grouse in Nevada. Part of the intent of the proposed amendment is to put forward a management scheme in Nevada.

In paragraph 9, we added that when the Draft Environmental Impact Statement came out, it proposed various alternatives to amend the agencies' land use plans that the agencies preferred. The BLM and Forest Service's alternatives

were not provisions the State was hoping to implement. Granted, at that time, the State Plan was going through a lot of work and finalization.

Adoption under the BLM and Forest Service provisions as the preferred alternative, which is very restrictive, would prove detrimental to Nevada's economy and way of life if the sage-grouse were listed as an endangered species.

In paragraph 10 of [Exhibit C](#), the focus is that the State Plan was not outlined as the alternative to be adopted by the agencies for managing sage-grouse in Nevada.

In paragraph 11, we struck a few things to bring the language up to date. The State Sagebrush Ecosystem Council has actually adopted its Conservation Plan and is developing the Sage-Grouse Strategic Action Plan. We are poised and ready at the State level to actually implement the Plan.

In paragraph 13, we are proposing that the Legislature strongly request that the BLM and the U.S. Forest Service adopt the Nevada Conservation Plan as the management alternative for greater sage-grouse in Nevada.

In addition to the greater sage-grouse staying off the listing under the Endangered Species Act, the next resolve, in paragraph 14, proposes language to request that the Fish and Wildlife Service allow the State to implement its Conservation Plan to prove that this is an adequate regulatory mechanism for the State.

The final resolve that we are proposing, in paragraph 15, reads that if the BLM, U.S. Forest Service and U.S. Fish and Wildlife Service do not follow the guidance of this resolution, the members of this Legislature urge and request the U.S. Congress to intervene. We request that the U.S. Congress enact legislation that would allow the State of Nevada to prove itself by implementing our Plan to demonstrate the effectiveness of managing the sage-grouse in the State.

The State was initially asked by the U.S. Department of Interior to develop a plan. So the State developed a plan, but it seems as though the rug is being pulled out from under us. We have to have an opportunity to implement the plan to prove that we can make it work.

Steve Walker (Carson City; Lyon County; Douglas County; Storey County):

Carson City, Lyon County, Douglas County and Storey County are all in favor of S.J.R. 5. I have reviewed the amendment, and we agree with it as well.

Neena Laxalt (Nevada Cattlemen's Association):

The Nevada Cattlemen's Association supports S.J.R. 5. In November, the Nevada Cattlemen's Association and the Nevada Woolgrowers Association put together a resolution ([Exhibit D](#)) at their joint convention which supports the Nevada Greater Sage-Grouse Conservation Plan developed in Nevada.

Senator Settelmeyer:

Do you support the proposed amendment as well?

Ms. Laxalt:

I assume that my client will support the proposed amendment, but I did not see it until today. I will need some time to take a stab at it and get back to you.

Kandis McClure (Southern Nevada Home Builders Association):

The Southern Nevada Home Builders Association supports S.J.R. 5. We have not had the chance to review the proposed amendment, but we will likely continue to support the resolution.

Bevan Lister (Vice President, Nevada Farm Bureau Federation):

Nevada Farm Bureau policy supports the Sagebrush Ecosystem Council and Nevada's Greater Sage-Grouse Conservation Plan. We support S.J.R. 5.

We do also support the proposed amendment in general; it fits within our policy recommendations. We hope that every strengthening effort to make sure that any decision made by the federal agencies that does not include the State of Nevada's plan would be considered inconsistent.

Dagny Stapleton (Nevada Association of Counties):

The Nevada Association of Counties supports S.J.R. 5. We agree that a greater sage-grouse listing would have a pretty dramatic impact on our economy, specifically the economies in the rural counties and the industries upon which they depend.

We support the work of the Sagebrush Ecosystem Council, and we have a representative on that board. The board has put 3 years of work and research

into developing the Plan; we support what the Plan consists of and the proposals for managing and conserving sage-grouse population and habitat in Nevada.

In regard to the proposed amendment, we also support the Nevada Plan being chosen as the preferred alternative in the Environmental Impact Statement.

Jesse Wadhams (Las Vegas Metro Chamber of Commerce):

We want to go on record supporting S.J.R. 5; we believe it is an important economic development component for the entire State.

Floyd Rathbun (F.I.M. Corporation):

I represent F.I.M. Corporation, a sheep ranch in Lyon County. My background is in wildlife biology and range management from a technical standpoint.

We have worked hard to participate in the development of the Sagebrush Ecosystem Council's document; however, there are still some things that we are disappointed with that have not been included.

One is that the conservation criticism has been written for areas with the sage-grouse except for Douglas County and Lyon County. There has also been discussion about the technical aspects of the Plan. We still disagree with using habitat descriptions as a proxy for actually counting the number of sage-grouse present. There has not been a strong correlation between what is considered the habitat of the sage-grouse and where the birds actually live.

Pat Sanderson:

I am in favor of what we have discussed so far. We definitely need to go with the Nevada Plan.

One reason that we have lost a lot of the ecosystem is because of wildfires. The federal government does not give us money to fight fires.

Since we will be having another dry season, fires will run through the ranges. No matter what kind of plan we have, we are not going to keep up with that aspect because the federal government does not take care of it and lets the fire burn itself out.

We need to include something in the resolution that has to do with wildfires—as far as managing them and getting money to fight them in order to get all our conservation work done.

When a fire comes through and wipes everything out, we are going to be right back where we started. We need to include a note to ask the federal government to fund firefighting. It is not the cattle, mining or anything else that destroys the ecosystem. It is the fires that run through here. It is impossible to go back and fix up half a million acres in a year. If the federal government does not help us, we cannot help ourselves.

Leo Drozdoff (Director, State Department of Conservation and Natural Resources):

As was mentioned, we have been at this for close to 3 years. We are very much in support of the resolution; we feel that it captures the work that we have done to date.

As far as the proposed amendment, it is probably fair to say that we would be in agreement with the spirit; but since we just got it today, we certainly need time to work with Eureka County representatives to better vet whatever issues they are raising.

Tony Wasley (Director, Department of Wildlife):

I would like to add that when you have a species like the sage-grouse that encompasses 11 different states, it is safe to say that at least 11 different processes deal with it. The process that Governor Brian Sandoval has provided us in Nevada, which brings multiple agencies and multiple stakeholders together to develop, has incorporated the best science known to man on sage-grouse while working with our partners at the U.S. Geological Survey.

We will see the day where other states follow our lead in this capacity. We have ground-breaking science that will help us in this arena. We support S.J.R. 5.

Jim Barbee (Director, State Department of Agriculture):

I concur with my fellow directors; we support S.J.R. 5.

Kyle Davis (Nevada Conservation League):

On reviewing the proposed amendment, I would like to work with the proponents to gain a better understanding of what they want to accomplish. At the moment, I stand neutral and will get back to you.

Jim Falk:

I was not aware of the proposed amendment that the gentleman from Eureka brought in, and that changes it quite a bit. Without those amendments, I would say vote against S.J.R. 5.

The greatest threat to the sage-grouse is the proliferation of federal agents and the terrible power of governmental agencies.

I have submitted my prepared testimony to the Committee ([Exhibit E](#)).

Cliff Gardner (Rural Heritage Preservation Project):

Rural Heritage Preservation Project is a small project that began in 1985 when myself and others of my generation became concerned about all of the misinformation that was pushing the environmental movement. I have been intensively involved in this process for over 2 years. I want to express that I am adamantly opposed to S.J.R. 5.

On page 2 of the bill, you will notice lines 20 and 21 read that the project "combines the best available scientific information and stakeholder input" What we tried to do as an organization was to bring in data that has been hidden, suppressed, circumvented and in one way or another has not been favorable to federal and state agency agendas.

We did everything that we could. We are only allowed to come in during public comment, which is limited to 3 minutes. The language in the Executive Order 2012-19 calls for the creation of a council that will encourage public input, coordination, and discussions, but that never occurred. So the large bodies of data that we brought forward were completely ignored. This whole process was completely driven politically and not based on science.

On September 18, I submitted a State information request for copies of all the documents dealing with the main plan. Officials said that they did not have time to get them. I also entered into the record a long list of over 100 studies that were favorable to livestock, and Council members said that they had no time to

review them. If these people had no time to review these references and studies, how can they say that the Plan is based on the best available science? It cannot be. It is a lie.

We have been particularly upset with findings that indicate data shows the main problem hurting the sage-grouse is lack of predator control.

We also went back in the history of the sage-grouse during the settlement of the West. We found that for the first 20 years of exploration in the West, no one saw a sage-grouse. It was not until after people put livestock on the range, implementing effective predator control practices, that we had explosions in all species of wildlife, especially the sage-grouse.

The reason that we are having declines in sage-grouse right now is clearly shown in the records of the Hart Mountain National Wildlife Refuge, the Ruby Lake National Wildlife Refuge and the Sheldon National Wildlife Refuge where they keep annual and quarterly reports. Year after year the reports show a direct correlation indicating that when more effective predator control programs were implemented, the sage-grouse population exploded. The minute any of those programs were reduced, the sage-grouse were reduced to the low numbers that we see today.

Interestingly, the records show the reduction in all species of wildlife occurred earlier on the refuges than they did on the other surrounding lands that are managed by the federal government simply because the refuges were the first places that were able to strike back at predator control and at grazing.

If anything, what I would like to see come out of a Committee like this is for you to take advantage of our research. If you are sincere about protecting Nevada, our economy and the wildlife, look at my stuff like no one else has yet.

We need to go back to those who have been involved in this process and make sure that they base everything on the best available science and that they invite the public in to make presentations. Not once during this process was there a formal invitation to an individual or organization to come in and make a presentation. I saw no integrity in the entire process.

Chair Farley:

Do you have all of the information that you would like to be viewed by this panel? Do we have everything that you feel was missed in the original process so that we have the opportunity to look at it?

Mr. Gardner:

No, it has not. We can make the information available to you.

Chair Farley:

At the end of this meeting, we can have a quick discussion so that we can make sure that it is part of the record and we have a chance to take a look at it.

John Wagner (Nevada Committee for Full Statehood):

I have read the proposed amendment, and I think that it is a step in the right direction. The best method of conservation would be letting Nevada be Nevada.

We need to let the farmers do their jobs. Why do the sage-grouse and other animals flourish when there are farmers and ranchers out there? Because the farmers are taking care of their livestock and providing water for them as well.

These birds are not stupid; they go where there is water. As the farmers work the land, it actually helps with the ecosystem and does not destroy it.

Bonnie McDaniel:

I am a 55-year resident of Las Vegas. Senator Farley is my senator. I speak on behalf of 26 registered voting members of my family who live in Nevada.

I am here to testify in opposition to S.J.R. 5 because it gives the bureaucrats of big government exactly what they want: unending studies and programs lasting for decades at the expense of the private sector and taxpayers.

We do not want or need any further government interference at the expense of wildlife and taxpayers. As written, this plan will not reduce the government's ability to impose undue restrictions on the public as many would have us believe. Instead it sets forth a mitigation program which gives State and federal employees precisely what they have wanted all along, the open lands of Nevada.

Everyone opposed to ever-increasing governmental control and spending over resources at the expense of wildlife and those working within the private sector should oppose this plan.

The sage-grouse are not endangered or near extinction except at the hands of the government and the management departments that make remarkably stupid restrictions, like not letting cattle graze on the same lands where the sage-grouse nest. By not letting the cattle graze and keep the grasses shorter, it means the sage-grouse have to go out into the open land to make their nests and lay their eggs. This makes them more vulnerable to the ravens that raid the nests and break open the eggs, resulting in no sage-grouse chicks. If the cattle could graze to keep the grasses shorter, the sage-grouse would construct their nests in the shorter grasses, lay their eggs and be more protected from the ravens—problem solved.

It is obvious to anyone who has lived on open land or even visited public lands that the people who are here to manage our lands really do not know what they are doing. There is more mismanagement than management of the public lands. Maybe those hired in the management of public lands should be people who have some actual experience living on or being on open lands, not some city slicker who has a college degree in something that does not have anything to do with living things management. This resolution is also pushing the rest of the few ranchers who we have left in Nevada off their land.

This is exactly what the government wants. We all oppose this bill and pray that you will remember your oath that you took to uphold the Constitution in both the United States and Nevada and do what you promised your constituents you would do.

Vote according to what is right and just, not according to who paid you the most or hired you to vote a certain way. The cronyism must stop, starting with this Legislature and the lobbyists you have been dealing with. Their firms or their clients should not be influencing your vote in any way.

The constituents should be your concern. Remember, there is an election coming up; let us see if you are still here next time. We will be watching every vote this year, who is influencing votes and whom you interact with when you are not in session. The eyes of Nevadans are on you now and will be in the

future. Your vote belongs to the constituents, not the government or other elected persons.

Alisa Bistrek:

I am a resident of North Las Vegas and I am a life-time resident of the State. I am a rancher's daughter, so I have had personal experience with a lot of this. I just want to say that I agree with a lot of the testimony given by several of those who are opposed to S.J.R. 5.

I agree that it is a step in the right direction to put more of the management decisions on authority in Nevada's hands. Ultimately, when you address a problem and you are serious about it, the closer that you are to the problem the closer that you are to a solution. In other words, those who are working the land and those who are on the land and actually interact with it are the ones who are going to be the best equipped to address how things can be improved.

I understand the need for a plan to move forward, but we also need to think about the private industry. We are at a point in our State's history and in our Nation's history where decisions for how things are handled has been professionalized.

With the different alternatives with the Draft Environmental Impact Statement, the person who has not been heard from is the average person because there have been hundreds of different groups' inputs. The land and the resources belong to the people, and all of us are for conservation.

From my own experience, I have seen my father devastated because lands are being destroyed due to the lack of farmer influence on the ecosystem. We always took care of everything that we came across.

In Mother Nature, as soon as you give something a protected status, you are taking everything out of balance. That is why the ravens are eating all of the sage-grouse eggs. Mother Nature balances itself and has an intrinsic supply and demand. There are a lot of underestimated and commonsense solutions. I would like to see you more receptive and go a couple more steps to getting closer to the problem.

Linda Sanders:

I am from North Las Vegas. I am opposed to S.J.R. 5, and I am grateful to know that you, Senator Farley, are willing to review the studies that Cliff Gardner wants to show you.

Senator Pete Goicoechea (Senatorial District No. 19):

I am concerned. I see that you have a proposed amendment presented to you, but if it moves forward, I would like to see some of the language from Wyoming's Senate Joint Resolution 6.

Wyoming requests a 10-year moratorium to allow the 11 states impacted by the sage-grouse issue to have the opportunity to measure their plans' success or failure.

There is some misconception when we talk about the Greater Sage-Grouse Plan. It is a living, breathing document. We are going to have to live and work within that document while making changes as we move forward. While I am supportive of that, I would like to see the language expanded so that we have the time to get there.

We are rapidly approaching a point where the cure is going to be far worse than the disease. We might be better off taking a listing than we are accepting the resource management changes that the federal agencies thrusts upon us.

John Carpenter:

As most of you know, I was at the Legislature for 24 years. I spent my whole life in Nevada. I was in the ranching business for many years. The sage-grouse are near and dear to my heart, and I do not want to see them disappear. Unfortunately, I feel that with the listing, that is what is going to happen.

When the sage-grouse are listed, all these plans that are in place and all the money that has been spent will go down the drain. We just saw this happen in Colorado, where people put millions of dollars into plans and habitat restoration, but the Fish and Wildlife Service paid no attention. The agency listed the bird anyway.

We are so fearful that if something like this happens, our way of life in Nevada, especially northern Nevada, is going to be destroyed. There are a lot of

sage-grouse out there—probably over 500,000 of them. They are not in peril of dying off this year or next year, maybe the next hundred years.

The big problem that we have is fire. When the cattle and the sheep are decreased, there are more fires. Fires wipe out thousands and thousands of acres. It takes 20 to 30 years for these lands to heal and for the habitat of the sage-grouse to come back.

The private landowners have been doing great things and that is the reason why sage-grouse are here: because people started to irrigate, and the birds need that irrigated land to survive.

In Elko, we started a pilot project, probably one of the only pilot projects around the Country. What we are doing is not only habitat restoration but predator control, especially raven control, because it has been proven that the predators are taking 80 percent of the sage-grouse eggs. Over 50 percent of that is attributed to the ravens. With a proper kind of predator program and some habitat restoration and enhancement, the sage-grouse are going to be fine. But if they are listed, I do not know.

Whereas the spotted owl is listed, another type of owl is eating the spotted owl. Since the Fish and Wildlife Service is protecting the ravens, they are destroying the sage-grouse. Almost the same thing is happening. We do not want that to happen in Nevada.

Mr. Goicoechea:

You have heard quite a bit of testimony today. I encourage everyone who has not had the opportunity to please read the Nevada Greater Sage-Grouse Conservation Plan. There are a lot of good things in the plan, there is page after page of action items.

We talk about fire. That is absolutely the No. 1 threat in the State of Nevada, make no bones about it. We address it directly in our State plan. The invasive species, cheat grass, we address. Predators, we address as well.

We have done a tremendous job. We have done what this body has asked us to do to the best of our ability with the best science available to us.

With that, I encourage you to support S.J.R. 5 and also support it as amended on behalf of my constituents in Eureka County.

Chair Farley:

I will bring the hearing on S.J.R. 5 to a close. Our next bill is Senate Bill 19, requested by Washoe County School District.

SENATE BILL 19: Authorizes the board of trustees of a school district to place an advisory question on the ballot at a general election. (BDR 24-477)

John Mayer (President, Board of Trustees, Washoe County School District):

I ask for your support for Senate Bill 19 proposed by the Washoe County School District in August 2014. We are allowed one bill per Legislative Session, and we take the opportunity seriously. Given the emphasis on education in our community, we settled on asking the Legislature to give school boards the ability to pose advisory questions on general election ballots.

Angie Taylor (Vice President, Board of Trustees, Washoe County School District):

The school district makes a concerted effort to connect with the community. Historically, we do a decent job with those people who have a direct connection to a school—parents, teachers, staff, volunteers and students.

However, we have struggled to connect with those not directly connected to schools—those without kids in schools, retired residents and the business community—people who are often reliable voters.

With education as a primary focus in our community and with our district's commitment to see every child, by name and face, to graduation, there may be important issues in which the Trustees need voter input.

The most relevant example would be school construction funding. During the process of A.B. 46 of the 77th Session, we often heard opponents say we should go to the ballot, take it to the voters. In order to do that, law requires the school board, elected by the voters of Washoe County, to ask the Washoe County Board of County Commissioners to place an advisory question on the ballot on our behalf.

Since the Commissioners and Trustees are elected by the same people and cover the same territory but govern separate systems, allowing the Trustees to connect directly with their voters seems reasonable. This avoids putting the Commissioners in the awkward position of making decisions outside their jurisdiction. It may also avoid any potential conflicts of interest between the elected bodies.

Aside from school construction, there are many other examples of circumstances in which the Trustees need voters to weigh in on an issue.

Lindsay Anderson (Washoe County School District):

We have worked with our stakeholders on this piece of legislation, and we know that there may be some concerns around the administrative responsibilities of posing ballot questions on general election ballots.

We wanted to make it clear that we are willing to take the complete administrative responsibility to write ballot questions. We would not expect the counties or cities to take that on.

We have heard that there may be concern that this is a slippery-slope bill, and other jurisdictions may decide that they want to pose advisory questions. To be clear, this bill only allows school boards to do that. We have not been approached by other jurisdictions to include them in this legislation. This bill is simply limited to school boards.

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We have also heard concerns around ballot crowding or school boards potentially seeking to have too many questions on a ballot. We have no intention of requesting more than one question on a ballot. Ethics rules prevent us from spending any taxpayer resources on supporting or opposing ballot questions. We are not in the business of posing several advisory questions. We do not see that as being an issue but certainly something that this Committee or a future Legislature could address if it did become a problem. We ask for your support of S.B. 19.

Sentor Settlemeyer:

One of the things that we discussed earlier was looking at the language for police committees, which are limited to fiscal affairs authorized by law. We had discussed potentially limiting the scope of the questions that the school district could ask, so their matters are relevant to education.

Ms. Anderson:

Thank you. We certainly have addressed that. Language talks about bills under current board consideration. If there is the need for further clarification, it will only be about issues considered by school boards. We will do that.

Senator Segerblom:

Have you gone to the Washoe County Commission and said we would like to do something and they said no? What has prompted this?

Ms. Anderson:

No, we have not been in that position. We interacted with the Washoe County Commissioners around a school capital issue last Session, but there has not been an instance where they have denied us that right. The Commissioners are not necessarily responsible for education issues, and they do not want to be. This is just an opportunity for our school board to connect directly with voters.

Senator Segerblom:

Have you asked them if they want to be? I would think that they would love to do something for you.

Ms. Anderson:

No, there has been no conflict. There is no backstory or contention between our school board and the County Commission ...

Senator Segerblom:

Anticipating problems?

Chair Farley:

Can you give me an example of where this may make a great improvement? Where you get voters more involved? Help me see that in reality.

Ms. Anderson:

There is not a particular example boiling up in our district right now. There are a lot of issues we do not necessarily connect with voters on as much as we would like to.

We are authorized to pose questions around rollover bonds, for example. People are used to school boards posing tax questions but not necessarily questions related to education.

Chair Farley:

We opened up saying that you have one bill and how it is so important to use this opportunity. What reason led you to notice that you are so disconnected. I want to see where this is really coming from and whether it addresses what you intend to solve.

Ms. Taylor:

Truly, there is no backstory; there is no issue that we anticipate coming forward. We just believe more and more as education becomes a greater issue in our community, which we believe is a good thing, that since we are elected by the same body of voters as the County Commission, we would like an opportunity to connect with them directly.

It may be issues like sex education, curriculum or zoning issues. It would be great for us to hear directly from voters instead of through another body. There truly is no issue that we anticipate right now, but if we wait until it comes up, then, of course, it is going to be too late.

Senator Segerblom:

When a measure is on the ballot, will it say that this is presented by the Washoe County School Board? Would the voters know whom it came from?

Ms. Anderson:

I am not sure exactly how measures are tagged on a ballot. I do not think that there would be any confusion. An instance where the school board wanted to pose a question that the county did not want could be a potential conflict.

Mr. Mayer:

In the explanation of the question, we would probably identify that it is a Washoe County School District proposal. It could be anything from zoning to

year-round school issues—a way to find out the pulse of the whole community instead of just the ones that have direct connections to the schools.

We find it important to have the whole community's input on such important issues in order to identify citizens' positions on them.

Senator Settlemeyer:

I do not believe that any other entity is required to stipulate the source of their advisory questions. I think we could just leave it that way.

Senator Atkinson:

Somewhere, it does say an advisory question. We had a discussion earlier. Is this for one ballot question per election cycle, or have we clarified that yet?

Ms. Anderson:

That is not clear in the bill whether it is one or more than one. That is certainly something that we can clarify.

Senator Atkinson:

Were you anticipating more than one? Or are you anticipating a possible question? From what I gather, you are not even saying that you will have a question. You would just like the ability to do one when you need to.

Ms. Anderson:

I would say that the intention is hypothetical. We just want access.

Tray Abney (The Chamber):

We find this is a very modest proposal. As you have heard, every other local government can put ballot questions on our local ballots.

The county school board is elected countywide just like the county commission. We have serious needs in the Washoe School District. We have talked a lot about that in this building, and everyone in this building talks about education being our No. 1 priority.

We believe that the local-elected school board that deals with this priority on a day-to-day basis and makes sure that our school district is run effectively and efficiently should have the option to pose a question to the voters.

In response to questions by Senator Segerblom and Senator Settelmeyer, a measure is named WCSD-1, for example, for an approved ballot question. You might also see RTC-5 on a question. As far as the labeling is concerned, that is what I have seen on ballots. It is very clear.

We support this effort and think that it is a reasonable and modest proposal.

Senator Segerblom:

I would be happy to give you the power to pose a real question. But the advisory question, why would we go through all of this work just to ask people what they want to do? That is why we elect people—to make those decisions.

Mr. Abney:

We do elect people to make those decisions. If you allow any local government to ask binding questions on tax and fees issues, you could start to have real problems between jurisdictions and counties. You need an ultimate arbiter, and that would be you folks in this building, to determine those policies.

Jessica Ferrato (Nevada Association of School Boards):

I am testifying on behalf of all the school boards in the State. This gives not only the larger districts but the smaller districts some flexibility to communicate with their voters in a way that they feel they cannot do at this point.

In terms of a binding question versus an advisory question, that is just a way for boards to receive additional input so they can act and move forward from a policy perspective.

Scott Gilles (City of Reno):

The City of Reno supports this bill in extending the right to the school board to ask for the advice of registered voters in their counties on specific issues. It is another avenue to connect with public views in a nonbinding way.

To address the labeling of the questions on the ballot, the law offers no explicit direction as to how county and city advisories are labeled. Measures typically are labeled using a numbering system. County clerks and registrars would make the effort to identify those questions as school district questions.

Senator Segerblom:

Would the voters appreciate a measure more if it comes from the school board as opposed to the county commission?

Mr. Gilles:

I do not have an opinion on that.

Mary Pierczynski (Nevada Association of School Superintendents):

We support S.B. 19.

Yolanda King (Clark County):

As the bill is written, it definitely applies to Clark County. Although we are neutral on the bill, the concern that I would like to raise is that the Election Department is responsible for running those elections. There are federal guidelines for when the printing of those ballots has to occur.

The parties involved need to realize that there are processes, procedures and deadlines to be adhered to for those questions to get on the ballot.

Ms. Stapleton:

We have a proposed amendment for S.B. 19 ([Exhibit F](#)). This proposed amendment would put a population cap on the bill so that the proposed change would apply only to counties that have a population greater than 100,000 people, specifically Clark and Washoe Counties.

The smaller counties had similar concerns about having the responsibility to place these measures on ballots. The smaller counties have clerks, not registrars. They would prefer not having control over meeting deadlines and performing financial analyses.

We are not sure smaller communities have the same barriers to connecting to the folks concerned about school board issues. Nothing indicates past issues, concerns or questions that school boards could take to county commissions.

We respectfully request that the Committee consider the proposed amendment.

Chair Farley:

Anyone else wishing to testify in opposition to S.B. 19? I will now close the hearing on S.B. 19 and open the hearing on S.B. 62.

SENATE BILL 62: Revises provisions governing the employment, promotion, dismissal, demotion and suspension of state employees. (BDR 23-285)

**Lee-Ann Easton (Administrator, Division of Human Resource Management
Department of Administration):**

I will discuss proposed changes to *Nevada Revised Statutes* (NRS) 284 in S.B. 62. We are requesting changes to ten different sections. I have submitted my prepared remarks to the Committee ([Exhibit G](#)).

We are requesting to allow the Personnel Commission to adopt regulations regarding the rights of a promotional employee who fails to attain permanent status in the position that he or she had been promoted to. It also allows for the noncompetitive appointment of an employee with a disability to a position at or below his or her current grade level. The bill also discusses the method for providing notification to State employees of certain personnel actions, and addresses medical marijuana.

Senate Bill 62 would allow an employee to be tested for drugs and alcohol following a work-related accident or injury and for the Division of Human Resource Management and its delegated agencies to receive the results of applicants' positive screening tests for controlled substances.

Section 1 of S.B. 62 amends NRS 284.300, regarding the rights of a promotional employee who fails to obtain permanent status in the position to which the employee had been promoted. Currently, if an employee is promoted and then rejected during the trial period, the employee immediately goes back to their former position, replacing the person who is in the employee's former position. That person—if there is nowhere to go or if he or she does not get another position—will actually be out of a job. But we do let such a person remain on a reemployment list to help him or her get another job.

In S.B. 62, if an employee is rejected from the trial period, we would put him or her back into the former position if the position is vacant. If the position is occupied, we determine which employee has the most seniority, and the employee with more seniority is not displaced. The employee with less seniority would be placed in another vacant or available position to which he or she qualified. If no vacancies, the employee will be put on the reemployment list.

We have worked with an association that is here to testify in support of this change. Senate Bill 62 will allow employees more flexibility in agencies and better define what the agencies can do to help employees retain employment.

Senator Segerblom:

If you get a promotion now and are on a 1-year probation, failing the probation period bumps you back to where you were before?

Ms. Easton:

Yes.

Senator Segerblom:

And how are you changing that?

Ms. Easton:

We would like to change it to where you can still bump back to your previous position if it is vacant. If there is an employee in the position, we look at which employee has the most seniority. If the person backfilling that position has more seniority, the employee could not bump him or her.

Then we would see if any other positions are in the department or across the State where the employee could be placed. If we can get the employee placed, we will. Otherwise, he or she goes on the reemployment list.

Senator Segerblom:

Would the person that you bump normally be less senior because he or she just moved into that position?

Ms. Easton:

Typically, yes, but not always.

Another agency testified of a situation where a 21-year employee was bumped out of a position by someone with less seniority. It does happen in some cases.

This is meant to protect the long-term employees. We feel that it is more fair to handle it in this fashion. If we find any employee who is going to be displaced, we are willing to do anything that we can to help the employee get another job. We call around to multiple agencies and nine times out of ten, we find a place for those employees so that they do not go without jobs.

Senator Segerblom:

What you do not want to do is discourage people from going for promotions.

Ms. Easton:

There are risks one may have to take to move up, but I agree that we do not want to discourage promotions. At the same time, we want to provide more of a safeguard. If for some reason a person did have to come back, we would look for another position if he or she could not go into the previous position. Or we would place the person on the reemployment list.

If we have a person on that list, no agency can fill a position without talking to the person on the list first, offering the job if he or she qualifies.

Senator Settlemeyer:

Are you indicating with this rule that longevity trumps ability no matter what?

Ms. Easton:

It would be seniority-based and we would have the Personnel Commission adopt regulations. We would have to work with all State agencies to show exactly how the seniority piece of it would work.

Senator Settlemeyer:

In a situation where you had someone exceptionally qualified for the job, would it not matter if someone with more longevity wanted that position back?

Ms. Easton:

It depends on how we adopt the regulations with the Personnel Commission. Seniority is what we are looking at here.

We have also submitted revised language to the bill in the form of a proposed amendment ([Exhibit H](#)).

Section 2 of S.B. 62 amends NRS 284.305 and allows for the noncompetitive appointment of a current employee with a disability to a position at or below the current grade level. This makes sure that we take every effort possible to place a disabled employee in the right position.

Section 3 amends NRS 284.379 to require every effort be made to accommodate a permanent employee with a disability. If an employee now

becomes disabled and cannot perform the essential functions of her or his position, the statute allows us to place the employee in another position if one is available.

Section 4 of the bill amends NRS 284.385 to allow the Personnel Commission to adopt regulations governing how to provide notification to State employees of certain personnel actions when we are unable to notify them in person. Statute only states that the method is by personal delivery or by U.S. certified or registered mail. We would like to add other carriers such as FedEx and UPS.

Another of our exhibits defines undue hardship when it comes to reasonable accommodation standards ([Exhibit I](#)). Section 4 in this exhibit explains what the notice states now.

Section 5 of the bill amends NRS 284.4062 to allow the Personnel Commission to adopt regulations regarding an employee who holds a valid registry identification card for the use of medical marijuana pursuant to NRS 453A. The employee could be subject to disciplinary action or referred to an employee assistance program.

Section 6 amends NRS 284.4063, which is similar to section 5. It allows the Personnel Commission to adopt regulations regarding the medical use of marijuana.

Section 7 amends NRS 284.4064 to allow an appointing authority to question an employee whom the authority reasonably believes is impaired by drugs or alcohol. If the employee consumed marijuana, he or she must provide proof of a valid registry identification card to engage in the medical use of marijuana, pursuant to NRS 435A.

Marijuana was previously treated as an illegal controlled substance. This change is necessary to allow an appointed authority to determine if an employee is using medical marijuana.

Section 8 amends NRS 284.4065 to allow an employee to be tested for drugs and alcohol following a work-related accident or injury. This change provides that a work-related accident or injury is sufficient justification for reasonable suspicion testing. If adopted, the State could reduce worker's compensation

liability for such an accident or injury if the employee were to test positive for being under the influence of drugs or alcohol when the accident occurred.

Section 9 amends NRS 284.4066. This provides the Division and its delegated agencies authority to receive the results of applicants' positive screening tests for controlled substances. Similar to sections 5 and 6, this change will allow the Executive Branch to manage situations that involve an applicant's use of medical marijuana.

Section 10 amends NRS 284.4068. There is not a requirement in statute for the Division of Human Resource Management to be notified of a positive test result. If a person does test positive to such a screening test, it states in regulation that he or she is not eligible for hire until 1 year has passed from the time of the positive test result or the applicant provides evidence that he or she has successfully completed a rehabilitation program for substance abuse. This amendment assists in the notification process to the appropriate Division staff. Additionally, it would allow for the disclosure of positive test results to those Division staff who provide assistance to agency staff.

Finally, section 11 provides the effective dates of all of the changes made.

Senator Segerblom:

Since I am the specialist in marijuana, I guess the question is that when you say test positive, they are going to determine by regulation what that means? Because you can test positive does not necessarily mean that you are under the influence. The key is that the test shows that you are under the influence.

Ms. Easton:

Yes.

Senator Segerblom:

I appreciate the fact that you are being proactive on this by identifying the fact that in Nevada, this is a recognized medical drug. Just because it is there does not mean that a person has done anything wrong.

Chair Farley:

Is there a requirement for employees to report that they are on or taking something that may impair them? If I were on or taking medical marijuana, I would have to report that I may be impaired?

Ms. Easton:

There is not a requirement for persons using medical marijuana to report it. This would allow the Personnel Commission to develop regulations addressing these issues; if we suspect someone is on it, we could ask for proof of a medical marijuana registry card.

Senator Farley:

Would you treat medical marijuana differently than other drugs that may impair someone's ability?

Ms. Easton:

Marijuana is considered an illegal substance, so it would be treated a little differently.

Senator Farley:

Technically, medical marijuana is not an illegal substance. Therefore, if I am on it for medical reasons and it impairs my ability to do my job, as an employee, would I have to report that I am using it?

Ms. Easton:

Once we get the regulations in place, employees would have to report it, just like when they are using any other drug.

Senator Segerblom:

The problem is that viewed under the federal law, it is an illegal substance. If you are in an accident and you are stoned, basically you have violated federal law and you are fired. The purpose is to change it so medical marijuana is treated like any other medicine. If you show that you have a prescription, then it will be treated as a prescription drug.

Senator Atkinson:

Just to clarify, that would exist for any medication an individual would take?

Ms. Easton:

Yes, any prescription medication.

Senator Atkinson:

Employees need to let their supervisors or someone know of any medication that they are on that might impair them.

Ms. Easton:

If employees are impaired or if they are asked if they are taking controlled substances or something of that nature, then they are required to report it.

Senator Segerblom:

But because of the Americans with Disabilities Act, you cannot just ask if a person is taking a drug. There has to be some connection: you are either in an accident or you seem to be physically impaired.

Senator Farley:

I come from construction, so if you operate equipment, you have to tell me before, you cannot tell me after the fact. But because it is legal in this State and it may become legal federally, it should be treated like other medication, so I have an interest in making sure that ...

Scott Sisco (Deputy Director, Support Services, Department of Corrections):

About 25 years out of 29, I have worked for human resources in one form or another. I support S.B. 62. In particular, I would like to address section 1 because I have a real-life example that is very recent.

It used to be that if a State agency had a vacant position, an employee from another agency or her or his own agency would apply for that job and be promoted into the vacancy. That would leave behind a position that another employee might be promoted into, then that person opens another position, etc.

Lo and behold, if that first employee who got promoted into the vacant position did not make it through the probation period, he or she was bounced back to the previous position. The person in that position would bounce back to the previous position and so on.

Not that long ago, a new deputy attorney general came along and reinterpreted that particular statute and said that from this point forward, only the first person gets to bounce back and the others are simply out of a job. We have created a situation where we are discouraging state employees to apply for promotions. Now they have to worry about affecting several layers of people above them and whether or not these other people will make it.

Recently, in the Department of Corrections, we hired a new budget analyst who promoted over from another agency. She had 21 years under her belt. The

employee who left the position got promoted to somewhere else, but after 8 or 9 months, we received word that she was going to be bounced back. We assumed that she would bounce back to her old position as well; however, we found out that she would not be bouncing back. She was out of a job; she was going to be unemployed.

We were desperate. She was in hysterics as a single mother who had no place to bounce back to. We were literally down to 2 days until this 21-year employee would have a break in service because of this new interpretation of the law. Initially, we had no place to put her. We were fortunate to find a vacancy, four divisions over, that we could move her to temporarily until we had another budget analyst position open up.

That is what this particular interpretation has done. When this bill came out, we were thrilled.

Mr. Sanderson:

I am always for something that helps a working person, but when you read this language you do not know for sure whether it will help people or hurt them. All of the people here say that it is going to help, and I am fine with that.

One of the things that bothers me is: why do you mail somebody a termination slip? Why not just hand it to the person while on the job? Are you afraid to tell the person that he or she is not competent?

If a person is working at the job, that is where the reduction in force or the bounce back should go to. You do not send something in the mail; you hand deliver it. These people have been working for you for years, and you have given them a promotion.

The other thing is workers' compensation. Every person who gets injured on the job has a workers' comp doctor. The State workers have sucked at workers' comp for the last few years, and they have put the screws to their own people.

You have a record on workers' comp employees' drugs now, so why do you not look at workers' comp records to see exactly where they are? It does not need to be the employee that hands it to you.

I care about the working men and women out here. Use common sense and decency when you lay somebody off and when you bounce people back. Protect the people in those positions.

Kevin Ranft (American Federation of State, County, and Municipal Employees Local 4041, AFL-CIO):

A lot of State employees have fallen within this bill under section 1. I thank Human Resource Management Director Lee-Ann Easton and her colleagues for working with our organization to ensure that the language in this bill protects and provides fairness within the statutes that govern State employees.

Under section 1 of this bill, Human Resource Management's intent is to ensure that every State employee who falls under subsection 1 of NRS 284.300 gets every opportunity to retain State employment.

This issue has been problematic since the 1985 change. We felt back then it was change for the better, but it actually has caused some confusion in some cases where good employees actually lose their jobs.

This is one of those things where if you do not have all sides sitting together, you risk the possibility of not accomplishing what you have set out to do. We want fairness for management and the employee. In this case, we clearly feel that this good language ensures protections.

We support this S.B. 62 as amended.

Senator Settlemeyer:

Do you feel that all of the issues and concerns have been addressed? Or is there any work that needs to be done to make it better?

Mr. Ranft:

We sat down for over a week at various meetings and really sought out different drafts on how to ultimately protect the State employees brought under section 1, ensuring that they have jobs.

One of these days we may actually fill all positions within the State government and have no vacancies. There will always be the risk that one might have to be put on the reemployment list. But Human Resource Management has ensured us that it is going to take every opportunity to find that employee a job.

Whether it is seniority or if the employee is a good employee based on an evaluation, an employee may just not be a good fit for a promotion and may even self-demote.

Sometimes we feel that management really looks at who is doing a great job. The employee would not be given the opportunity to promote if he or she did not have excellent evaluations and qualifications.

Senator Farley:

I will close the hearing on S.B. 62 and open up public comment.

David Byerman:

I served as Secretary of the Senate for Nevada from 2010 to 2014. I am not here today representing the Democratic Party or the Republican Party. I am here today representing the principles of good government.

I have concerns about the way that this Session has started over the course of the last couple weeks. I would like to make modest proposals for some process changes that Republicans and Democrats should both be able to agree on.

Senate Bill 119 was brought up to the Committee of the Whole on Monday, February 16. You all remember that this is the school bond rollover and prevailing wage bill. There was a lot of public interest in this bill with many people tuning in from southern Nevada and northern Nevada as well.

SENATE BILL 119: Revises provisions relating to educational facilities.
(BDR 28-732)

I was disappointed during that session on Monday because no agenda was posted for that meeting until about an hour into the meeting. Now, I do not know if it was an oversight or what caused that problem. I did bring it to the attention of the Front Desk via Twitter and I did not receive any response.

One modest proposal is that before any floor session begins, an agenda should be posted. I know that the last couple of sessions, we delayed the start of floor sessions several times to wait for an agenda to be posted. Especially for those of us here in southern Nevada, it is important to see what is on the agenda before the meeting starts.

Secondly, I propose that the agendas themselves be a little more detailed. If you compare the February 18 agenda for the Senate in 2015 with the agenda for the exact same date in 2013, the 2013 agenda was 9.5 pages and the agenda for 2015 was 1.5 pages. The difference is the listing of every bill to be introduced along with the committee for referral. This Session, that is not happening. It does seem like a policy difference or change. It is good government for the public to have the ability to see what bills are to be proposed and where those are to be referred.

Finally, the third proposal is that proposed amendments to bills should be made available when they are being debated on the Senate Floor. Senator Joyce Woodhouse's proposal on Monday on S.B. 119 was not posted on NELIS for a good hour into the debate. It was not until after the meeting was over that the proposed amendment became available on NELIS. If the Front Desk realizes that the amendment is not posted, it is a simple matter to call for a recess and wait for the matter to be resolved. I do not know if that was an oversight or simply a policy decision, but hopefully that is something that everyone can agree on.

Senator Atkinson, you tweeted earlier today about the lack of transparency and openness in the process. I do not want to interject myself into a Democratic versus Republican issue at this time, but I hope that these three modest proposals are something that both parties can agree on.

These are simple changes that—especially for the two-thirds of the population who live down in southern Nevada—can open up this process and make it so everybody can have more access to the government that represents them.

Janine Hansen (Nevada Families for Freedom):

I live about 10 miles from Devil's Gate Ranch which is one of the sites for research on the sage-grouse and particularly on the impact of the ravens. I have 24 heritage turkeys and 40 chickens, and one of the problems that we have had is protecting our own birds from the numerous ravens that are around.

There are many good proposals regarding doing something about the sage-grouse, particularly those that will not impact our State's economy.

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Chair Farley:

Thank you. I adjourn this meeting at 5:24 p.m.

RESPECTFULLY SUBMITTED:

Haley Johnson,
Committee Secretary

APPROVED BY:

Senator Patricia Farley, Chair

DATE: _____

| EXHIBIT SUMMARY | | | | |
|------------------------|----------------|---|---|-----------------------------|
| Bill | Exhibit | | Witness or Agency | Description |
| | A | 1 | | Agenda |
| | B | 9 | | Attendance Roster |
| S.J.R. 5 | C | 2 | Eureka County | Proposed Amendment |
| S.J.R. 5 | D | 1 | Nevada Cattlemen's Association and Nevada Woolgrowers Association | Joint Convention Resolution |
| S.J.R. 5 | E | 1 | Jim Falk | Prepared Testimony |
| S.B. 19 | F | 2 | Nevada Association of Counties | Proposed Amendment |
| S.B. 62 | G | 4 | Lee-Ann Easton | Prepared Testimony |
| S.B. 62 | H | 2 | Division of Human Resource Management | Proposed Amendment |
| S.B. 62 | I | 2 | Division of Human Resource Management | Exhibit |