

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

**Seventy-Ninth Session  
March 28, 2017**

The Committee on Legislative Operations and Elections was called to order by Chairwoman Olivia Diaz at 1:36 p.m. on Tuesday, March 28, 2017, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/79th2017](http://www.leg.state.nv.us/App/NELIS/REL/79th2017).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Olivia Diaz, Chairwoman  
Assemblyman Nelson Araujo, Vice Chair  
Assemblyman Elliot T. Anderson  
Assemblywoman Shannon Bilbray-Axelrod  
Assemblyman Skip Daly  
Assemblyman John Hambrick  
Assemblyman Ira Hansen  
Assemblyman Richard McArthur  
Assemblywoman Daniele Monroe-Moreno  
Assemblyman James Ohrenschall  
Assemblyman James Oscarson

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblyman Al Kramer, Assembly District No. 40  
Assemblyman Paul Anderson, Assembly District No. 13

**STAFF MEMBERS PRESENT:**

Carol Stonefield, Committee Policy Analyst  
Kevin Powers, Committee Counsel  
Julianne King, Committee Secretary  
Melissa Loomis, Committee Assistant



**OTHERS PRESENT:**

Sondra Cosgrove, Chair, Legislative Committee, League of Women Voters of Nevada  
Matthew Tramp, Private Citizen, Las Vegas, Nevada  
Jean Laird, Secretary, League of Women Voters of Nevada  
Jan Browne, President, League of Women Voters of Nevada  
Maud Naroll, Member, League of Women Voters of Nevada  
Todd Bailey, Research Analysis Director, Nevada Accountability  
Doug Goodman, representing Nevada Election Modernization and Reform Act  
Joseph P. Gloria, Registrar of Voters, Clark County  
Donald G.T. Gallimore, Sr., Private Citizen, Reno, Nevada  
Luanne Cutler, Registrar of Voters, Washoe County  
Susan Merriwether, Clerk-Recorder, Carson City  
Wayne Thorley, Deputy Secretary for Elections, Office of the Secretary of State  
Lynn Chapman, State Vice President, Nevada Eagle Forum  
Janine Hansen, State President, Nevada Families for Freedom  
David Gardner, Private Citizen, Las Vegas, Nevada

**Chairwoman Diaz:**

[Roll was taken. Rules were explained.] I will invite Assemblyman Araujo to come to the table. I will open the hearing on Assembly Bill 293, which is a proposal to provide for presidential preference primary elections.

**Assembly Bill 293: Providing for presidential preference primary elections.  
(BDR 24-875)**

**Assemblyman Nelson Araujo, Assembly District No. 3:**

Today I am here to present Assembly Bill 293, which would allow major political parties in Nevada to opt into a presidential preference primary. I decided to bring this bill forward because every presidential cycle, both parties usually find themselves asking if a presidential caucus is the best method to engage voters. I want to be clear about my position on this issue. Each party should make the best decision for their respective primary elections. However, these decisions can be better made when more options are available. This bill would allow just that.

Before I walk the Committee through the bill in detail, here is a brief summary of the main components in A.B. 293. First, it authorizes the respective state party to opt into a presidential preference primary election by informing the Office of the Secretary of State that the party wants a presidential preference primary election. If a presidential preference primary election is held, the election will be paid for by the state out of the Reserve for Statutory Contingency Account. Second, each party will select the date of the primary election for that party and must give at least 90 days notice to the Secretary of State. Third, early voting for a presidential preference primary election will begin 17 days before the date of the election and extend until 2 days before the election. Fourth, the presidential preference

primary will have same-day registration during early voting. Hours of early voting will be consistent with existing statutes related to early voting. Fifth, the presidential preference primary will have same-day registration on the day of the election. In Clark and Washoe Counties, all polling places on the day of the election will be vote centers where any qualified elector can register to vote, and every registered voter can cast a ballot. In all other counties, there must be at least one polling place where any person can vote or register to vote on the day of the election. Sixth, the selection of delegates to the national convention and presidential electors will be by the winner of the primary election if consistent with the rules of the party.

At this point, I will walk the Committee through the bill. In section 1, Chapter 293 of *Nevada Revised Statutes* (NRS) is amended to include a definition of a presidential preference primary election. Under section 2, "section 1 of this act" is added to NRS 293.010. Section 3 adds section 26 of this act, which enables voters to register at polling places during early voting and on the day of the election and is added to NRS 293.12757. Under section 4, subsection 5, it states that county clerks are allowed to use voter registration applications filled out in the manner described in section 26 of this act for the purpose of verifying petition signatures. Section 5, subsection 1, specifies precinct meetings held in years in which a party holds a presidential preference primary election must be held after the Secretary of State has certified the results of that primary.

Under section 6, subsection 1, precinct meetings held in years in which there is a presidential preference primary election cannot use the election of delegates to the county convention as a means of expressing preferences for candidates for the party's presidential nomination. Under section 7, subsection 2, the ability of the state convention to select delegates and alternates, the national committeeman and national committeewoman to the national convention is removed when it conflicts with subsection 3 of this section.

Subsection 3, paragraphs (a) and (b) of section 7 state that if the party holds a presidential preference primary and the following is consistent with the rules of the party, then the selection of the delegates and alternates to the national convention must reflect the results of said primary. Delegates, alternates, and the national committeeman and committeewoman must be chosen by the candidate who received the most votes in the primary or the candidates from the primary in proportion to the results of said primary.

Under section 8, subsection 1, paragraph (a), potential candidates for President of the United States are exempted from the provision requiring ten or more registered voters to file a certificate of candidacy. Under section 9, subsection 4, a person must be allowed to vote as long as they are in line before 7 p.m. at a polling place at which they are entitled to vote. Under section 10, subsection 2, polling places where a voter may register to vote pursuant to section 26 are exempted from the requirements to close once all votes of that polling place, according to its roster, have been cast.

Under section 11, subsection 1, paragraphs (a) and (b), if a polling location is designated by section 25 of this bill for same-day registration and there are registered voters or electors

wishing to register to vote waiting at a polling location, the doors must be closed after all such people have been admitted inside. Voting must continue until all such persons have voted. Under section 12, presidential preference primary elections are no longer exempted from the current required actions of the election board at the end of each voting day during early voting if electronic voting machines are being used. Under section 13, subsection 1, paragraph (c), "section 26 of this act" is added to the description of how electors may register to vote in NRS 293.517. Under section 14, subsection 1, "sections 20 to 30, inclusive of this act," which detail methods and times in which an elector may register to vote for a presidential primary, are added to the description of restrictions on when voters may register to vote in NRS 293.560.

Under section 15, subsection 1, paragraph (d), it is clarified that a person can be entitled to vote at multiple locations but should not attempt to receive a ballot at a location where they are not entitled to vote. Under section 16, it is again clarified that a person can be authorized to vote at multiple polling sites, but should not attempt to vote at a location they are not entitled to vote at after being rejected when trying to vote at a previous location. Under section 17, pursuant to NRS 293C.3604, presidential preference primary elections are no longer exempted from the current required actions of the election board at the end of each voting day during early voting if electronic voting machines are used. Under section 18, the voting procedures established in NRS 293D.100 are applied to presidential primary elections.

Under section 19, Chapter 298 of NRS is amended to include sections 20 to 30, inclusive, of this act. Under section 20, subsection 1, a presidential primary must be held if the state central committee of a major political party notifies the Secretary of State that they wish to do so no later than 5 p.m. on October 1 of the year prior to a presidential election. Subsection 2 of section 20 states that the state central committee will establish the date of the primary, which must be at least 90 days after they contact the Secretary of State. Subsection 3, paragraphs (a) and (b) of section 20 state that the Secretary of State shall provide public notice of the date of the presidential primary. Additionally, the Secretary of State shall prescribe and provide public notice of the filing period for declaration of candidacy. Under section 21, subsection 1, persons wishing to be candidates for President of the United States must file with the Secretary of State a declaration of candidacy in the period set by the Secretary of State described in section 20 of this act. Subsection 2 of section 21 states that if less than two candidates of a party file declarations of candidacy, a primary may not be held for that party.

Under section 22, subsection 1, paragraphs (a) and (b), a person who wishes to participate in a party's primary must have registered as a member of the party whose primary they wish to participate in or submit an updated voter registration application indicating an affiliation with the party whose primary they wish to participate in at a polling place that allows for same-day registration. Subsection 2 of section 22 states that except as detailed in section 26 of this act, the voter registration deadline will be the twenty-first day before the presidential preference primary. Subsection 3 of section 22 states that a person shall not vote in more than one presidential primary.

Under section 23, subsection 1, each county clerk in any county who has any registered voters of the party holding a presidential preference primary must establish at least one early voting location. Subsection 2, paragraphs (a) and (b) of section 23 states that in counties with a population of 100,000 or more, each early voting polling place, as described in subsection 1, is a site for unregistered electors to register to vote and for a registered voter to change their registration to participate in the presidential primary of a party that is holding one. Subsection 3, paragraphs (a) and (b) of section 23 states that in counties with populations of less than 100,000, the county clerk must designate at least one early voting location as a site for unregistered electors to register to vote and a registered voter to change their registration to participate in the presidential primary of a party that is holding one.

Under section 24, subsection 1, early voting begins on the seventeenth day prior to a presidential primary and lasts to the second day before the primary, not including Sundays and federal holidays. Subsection 2, paragraphs (a) and (b) of section 24 states that the county clerk can include Sundays and federal holidays within the period for early voting and require early voting polling places to remain open until 8 p.m. on any Saturday in the early voting period. Subsection 3, paragraphs (a), (b), and (c) of section 24 states that a polling place for early voting must: (1) remain open on Monday through Friday during the first week of early voting from 8 a.m. until 6 p.m. and during the second week of early voting from 8 a.m. until 6 p.m. or until 8 p.m. if the county clerk requires; (2) for at least five hours between 10 a.m. and 6 p.m. on any Sunday within the early voting period; and (3) if the county clerk decides to include a Sunday in early voting, they may establish hours of early voting as they choose. Under section 25, subsection 1, each county clerk shall establish polling places for the day of the presidential primary. These polling places must open and close at the times set forth in NRS 293.273.

Subsection 2, paragraphs (a), (b), and (c) of section 25 states that in counties whose population is 100,000 or more, every polling place established in line with subsection 1 is a site: (1) where any voter registered in the county with a party holding the primary may vote; (2) for unregistered electors to register to vote; and (3) for a registered voter to change their registration to participate in the presidential primary of a party that is holding one. Subsection 3, paragraphs (a), (b), and (c) of section 25 states that in counties whose population is 100,000 or less, the county clerk may designate at least one polling place established pursuant to subsection 1 as a site: (1) where any registered voter in the county who has indicated an affiliation with the major political party may vote; (2) for unregistered electors to register to vote; and (3) for registered voters to change their registration to participate in the presidential primary of a party that is holding one. Subsection 4 of section 25 states that for each polling place established pursuant to this section, the county clerk shall publish in a popular newspaper in the county the location of the polling place and whether party members may vote there or a person may register to vote there.

Under section 26, subsection 1, paragraphs (a), (b), and (c) to register to vote or change party affiliation during early voting, or on the day of the presidential preference primary election, an elector or registered voter must: (1) appear before the polling place

closes; (2) complete a voter registration application; and (3) provide proof of their identity and residence as described in subsections 2 and 3. Subsection 2, paragraphs (a) through (d) of section 26 clarifies that the following forms of identification (ID) may be used: (1) a driver's license; (2) an ID card issued by the Department of Motor Vehicles (DMV); (3) a military ID card; or (4) any other form of ID used by a government agency which contains a signature and a physical description or picture of the elector or registered voter. Subsection 3, paragraphs (a) through (j) of section 26 states that the following documents may be used to establish residency if they list a current residential address of the elector or registered voter: (1) any form of ID set forth in subsection 2; (2) a utility bill; (3) a bank or credit union statement; (4) a paycheck; (5) an income tax return; (6) a mortgage, rental, or lease of a residence; (7) a vehicle registration; (8) a property tax statement; (9) any other document issued by a government agency; or (10) any other official document deemed by the county clerk, field registrar, or other person designated by the county clerk to be a reliable indication of an elector or registered voter's residential address.

Subsection 4 of section 26 states that an elector or registered voter who fills out an application pursuant to this section shall be deemed registered or to have their political party changed upon the completion of the application. Subsection 5, paragraphs (a) and (b) of section 26 states that an elector or registered voter who fills out an application pursuant to this section may vote in the presidential primary only: (1) at the polling place at which the elector or registered voter fills out the application; and (2) if the elector or registered voter indicates on the application an affiliation with the party holding the primary. Under section 27, each county clerk must provide a method for registered voters of major political parties to cast an absent ballot in the presidential primary. Under section 28, subsection 1, immediately after the primary, the Secretary of State shall compile the returns for each candidate. Subsection 2, paragraphs (a) and (b) of section 28 states that the Secretary of State shall create an abstract of the returns and certify the numbers of votes each candidate received. This abstract shall be sent to the state central committee of each party as well as to the national committee of the party if the rules and regulations of said party require it to do so.

Under section 29, if a primary is held, the cost of the primary must be paid from the Reserve for Statutory Contingency Account upon approval by the State Board of Examiners. Section 30, subsection 1 requires the Secretary of State to adopt regulations to carry out sections 20 to 30, inclusive, of this act. Subsection 2 of section 30 establishes NRS Chapters 293 and 293B, which govern the primary election applied to a presidential primary as long as they do not conflict with sections 20 to 30, inclusive, of this act or the regulations adopted by the Secretary of State to carry out this act. Subsection 3 of section 30 establishes that when a conflict exists between Chapters 293 and 293B of NRS and sections 20 to 30, inclusive, of this act or the regulations adopted by the Secretary of State to carry out this act, this act and the regulations associated with it prevail.

Section 31, subsection 1, paragraphs (a) and (b) establish that in addition to the current selection method, the selection of nominees to the position of presidential electors and alternates may be in accordance with subsection 2 of section 31 of the act. Subsection 2 of section 31 establishes that nominees to the position of presidential electors and alternates, if

in accordance with the rules of the major party, must be selected by the candidate of the major party who receives the most votes at the presidential preference primary election if that party holds a presidential preference primary election. Under section 32, subsection 2, paragraph (a), "section 29 of this act" is added to the obligations of the state that can be paid out of the Reserves for Statutory Contingency Account. Under section 33, the Secretary of State shall adopt regulations in the prescribed forms as soon as practicable, prior to the next presidential election. Finally, under section 34, this act becomes effective on July 1, 2017.

Madam Chairwoman, that was the run-through of the bill. Before we take questions, I wanted to mention that I received some proposed amendments and changes from both Clark County and the Secretary of State. I am more than happy to engage in a dialogue after this hearing to see what compromises we can reach. I am more than willing to be at the table for those discussions. I wanted to make sure that the Committee knew that I am aware of those proposed changes, and I am more than happy to have that discussion, so we can make this bill stronger.

**Chairwoman Diaz:**

Will Clark County or the Office of the Secretary of State be commenting as far as the recommended changes?

**Assemblyman Araujo:**

I believe so. I did not speak to Mr. Gloria, but I know the Secretary of State's Office will be commenting on the changes. If they do not do it, I would be more than happy to bring those up to the Committee as well.

**Chairwoman Diaz:**

Are there any questions from the Committee?

**Assemblyman Ohrenschall:**

Every time we have a presidential caucus, even though there are many benefits to the caucus, I have many constituents who have trouble finding out where it is and getting there while it is open. I think this will help many of our constituents be able to participate in the presidential primary. If this passes, do you think it will affect Nevada's early status in the national presidential election? How will it affect the Democratic National Convention (DNC) and Republican National Convention (RNC)?

**Assemblyman Araujo:**

I cannot speak for both parties. This bill will allow us the option to do our due diligence and explore our options in terms of how we elect the person who is going to be representing us in the general election. Even to have this option available would be a great asset. That is why I decided to bring this bill forward. I am biased. I love Nevada's status as an early state. I love the fact that Nevada is at the forefront of the dialogue when it comes to being a strong voice in electing who is going to represent us in the general election on both sides of

the aisle. That conversation still has to take place. However, having this option would allow Nevada to have something else on the menu when exploring the opportunities that exist for the state.

**Assemblyman Daly:**

I would relay the same sentiments as Assemblyman Ohrenschall. Particularly, right after the caucuses, people say they do not like the caucus, and they always come up with a reason. I have never heard anyone say that they love the caucus and it is the greatest thing. However, I think there are merits to the process. I think even this option is something that needs to be explored. It is well laid out, and you covered most of the bases. I have one technical question. I think in section 30 it says this bill would be the controlling bill to the extent that there might be other changes. There are other proposed changes, such as staying open until 9 p.m. on Sundays and various things. I am assuming if those go through, section 30 would not prohibit those from being enacted into the presidential preference primary election. The way I read section 30, I am assuming it would not. I was just curious about your opinion.

**Assemblyman Araujo:**

I believe you are correct. I do not think it would prohibit those changes from taking effect, but I will defer to Mr. Powers.

**Kevin Powers, Committee Counsel:**

That is generally the purpose of section 30. It is a conflict resolution provision. As set up in the bill, the presidential preference primary election would be conducted under Chapters 293 and 293B of NRS in the same manner as other primary elections. However, if there were specific provisions of sections 20 to 30 that conflict with those other chapters, the specific provision of sections 20 to 30 would take precedence. It would all depend on what the statutory changes that Assemblyman Daly is referring to provide for in contrast to what is in sections 20 to 30. It would depend on the comparison of the two pieces of legislation. Ultimately, if there were a conflict, the provisions of sections 20 to 30 of this bill would take control. If this bill was to pass and the other changes were to pass, it might be necessary to have a reconciliation of those provisions, so that there was no conflict. Usually at the end of session, that is what the Legal Division of the Legislative Counsel Bureau (LCB) does. The Legal Division looks for conflicts and tries to resolve them before both bills are enacted into law.

**Assemblyman Daly:**

That was the way I read it. I just wanted to get some clarification there. The only other question I have is about section 26. It states that you can change parties during same-day registration. In the presidential primary caucus, it is slightly different from the primary election and the general election because it is a one-day thing. If you do the same-day registration, there is no conflict. However, the Democratic caucus is on a different day than the Republican caucus. I am assuming it would be handled in regulation. I know it is encouraged in there, and I heard you go through it in three different places where it said people are only allowed to vote in one. However, if there are two different days, someone



could vote, change their party, and then go to the other one. Is there going to be some way to measure that or stop people from potentially doing that? It could go either direction, depending on who is first.

**Assemblyman Araujo:**

That is a great question. I know that is always kind of an issue that we have had. We had that same concern during caucuses because they are held on different days. I think Mr. Gloria or someone might be better suited to indicate the protections that are currently in place with our caucus system to ensure we are protecting the one vote that an individual gets and making sure they are not duplicating their efforts. However, I am happy to figure out a way to strengthen that language to ensure that we are being vigilant about those potential incidents if it is not already in existing law. To answer your question, I know those are concerns that currently happen. I am sure those are the same concerns that are going to follow if the parties were to opt into a presidential preference primary election. I trust that Nevada has great folks working day in and day out to make sure that we have people casting their ballots but not taking advantage of the system and doing something they should not be doing.

**Assemblyman Daly:**

As we build this, the Committee would look at those things and try to safeguard against them. The information is there. No one knows how a person voted, but each of the county registrars knows if a person voted. There should be a mechanism that would address those concerns. I am hoping they can do a regulation or statute if necessary. I just wanted to recognize that issue. I think it is a smaller issue than people think, but I think it is one easily solved.

**Assemblywoman Monroe-Moreno:**

Thank you for this bill. I think it is a conversation we need to have. We hear repeatedly after each caucus how much people hate the caucus or someone loves the caucus. My question is if A.B. 293 is enacted, would this force the major political parties into having a primary or could they still choose to have the caucus if that is what their central committee chooses to do?

**Assemblyman Araujo:**

I think that is spot on. This just adds another option to the menu. We have to respect that certain parties are making the best decisions for their electors and for what they feel is the best course. If both parties still opt into the caucus system they are using today, they are more than welcome to do so. I wanted to make sure that we presented them with an option, so when the time comes to make that decision, they can weigh in on the slew of options and choose whatever is best suited for them. I think it is really important not to take away that voice from the central committees. I think they have that right. They should know the best course on how to proceed with their respective primary elections.

**Assemblywoman Monroe-Moreno:**

If the major parties decide to do the primary, they have to inform the Secretary of State 90 days in advance. If they choose to remain with the caucus, is there any notification they have to give the Secretary of State?

**Assemblyman Araujo:**

I do not believe so. I see Mr. Powers looking at me, so I will make sure I am not saying the wrong thing.

**Kevin Powers:**

As this bill was written, it is a pure opt-in method, so the existing statutory structure for caucuses stays in place. These provisions of the bill only kick in if the state central committee provides that notice to the Secretary of State. This is a pure opt-in option.

**Assemblyman Elliot T. Anderson:**

I wanted to get into the timing issue that may come up. Theoretically, the parties could go on two different calendars with this. We cannot force them both to opt in and pick the same date. It could be two different primaries to be conducted.

New Hampshire has a law that says they have to jump around. How would you contemplate that working out in practice? If a party was to opt in, and New Hampshire started moving it around, would ours still move around? How would that work? How would the timing work?

**Assemblyman Araujo:**

I may need you to clarify the question. For example, one party selects to have their primary in February, and they notify the Secretary of State well in advance. Let us say that the state's Republican Party decides to have it two weeks after the Democratic Party does. New Hampshire then switches their date from February 24 to January 15. Are you asking how we would then handle that scenario where a state would try to jump ahead of our date?

**Assemblyman Elliot T. Anderson:**

Let me add some context. New Hampshire has a law that says their election needs to be ten days before any other primary. There has to be a ten-day space on both sides in terms of early state contests. They have provisions that require the Secretary of State of New Hampshire to move it around. Theoretically, someone could pick a date that could cause an early state arms race. How does your bill contemplate the timing if Nevada gets into those sorts of shenanigans with other early states?

**Assemblyman Araujo:**

That is a great question, but I feel like those are conversations that need to take place with the state representatives and their respective national delegates who are representing us at the DNC and RNC. That is a decision that is typically made at the national level for both parties. I think your question was how would the Nevada Legislature handle that. I think those conversations need to be thoroughly fleshed out before any party decides to opt in to

a primary to make sure that they are making the best decision for their party. If that is an area of deep concern, I would imagine that would be one of the primary focuses when having those conversations at the national level in order to obtain as much certainty as possible that there will not be an opportunity for someone to be sidelined and bound to something that may not have the effect the party initially wanted as a result of opting in to a primary. I think it would be premature at the state Legislature to say that we could control that dialogue, especially because of the way both parties are set up. I would be happy to chat with you offline if you have recommendations on how to work on language that could add some additional protections to Nevada in the event that something were to happen that would prevent us from remaining an early state.

**Assemblyman Elliot T. Anderson:**

I fully agree that those conversations need to happen. I just want to make sure that there is nothing in statute that we cannot come back here and fix for two years that would prevent us from being nimble should we get into that situation. We need to protect Nevada's early state status. That is my primary objective with all this. I am certainly willing to give parties the chance to go to a primary. When my constituents came to me with concerns about the caucus, I said I agreed with them. We had a caucus for a long time, and it did not get much attention because we did not have early state status. We have to try to find the middle ground that ensures people can participate and have a reason to participate because Nevada has that early status. I just want to make sure that this is a nimble law, so we can protect that.

**Assemblyman Araujo:**

I completely agree with you. I think this goes for both sides. We are all going to look out for the best interest of Nevada. I would imagine that this is going to be something that we are going to have to give a lot of thought to. I think if there are protections that can be provided at the state level in statute, we should certainly explore those opportunities.

**Chairwoman Diaz:**

Are there any further questions from the Committee? Seeing none, we will start taking testimony in support of A.B. 293.

**Sondra Cosgrove, Chair, Legislative Committee, League of Women Voters of Nevada:**

The League of Women Voters of Nevada supports A.B. 293, which creates a voluntary presidential preference primary ([Exhibit C](#)). We support all legislation that reinforces the concepts of free, fair, and accessible election processes, as these are bedrock League of Women Voters' principles.

Nevadans are lucky to live in a state with arguably the best county registrars and election employees in the nation. Because we are all so spoiled by the ease, security, and accessibility of elections in our state, trying to navigate through the caucuses can make voters feel frustrated and angry.

I was personally contacted by quite a few of those unhappy souls after the 2016 caucuses. Many wanted to file complaints over being unable to participate due to being out of town, at work, or because they found the experience to be undesirable.

The League of Women Voters of Nevada is therefore happy to support legislation that can move us to a presidential primary system in 2020.

**Matthew Tramp, Private Citizen, Las Vegas, Nevada:**

I serve as a member of the Clark County Democratic Party, the Clark County Democratic Central Committee, and the Nevada State Democratic Party Executive Board. I was also a volunteer site lead for the 2016 Democratic presidential caucus for the Democratic Party. I am also a longtime casino worker in Las Vegas, like many others in this community. I come to testify in support of A.B. 293. Unlike other states that run presidential caucuses, caucuses do not work for Nevada. First, we have one of the most transient populations in the state. Unlike other states that run presidential caucuses, Nevada has one metropolitan city of 2 million people. Most other states that hold caucuses have populations that are smaller. Nevada also has one county that consists of over 70 percent of the population. Las Vegas is also a 24-hour city. Many people do not have the convenience to take time off work to attend these caucuses. The last two Democratic caucuses were held on Saturdays. It is hard for many employees to take a full day off work just to attend this caucus.

**Chairwoman Diaz:**

Is there anyone else in Las Vegas to testify in support of A.B. 293? I am not seeing anyone, so we will switch back to Carson City.

**Jean Laird, Secretary, League of Women Voters of Nevada:**

I will not take up unnecessary time to repeat what Ms. Cosgrove said in Las Vegas, but I totally agree with her testimony. Additionally, I would like to add that my husband is an intelligent man and a very informed voter. He has chronic obstructive pulmonary disease and cannot participate in caucuses because of it. However, he always votes and would vote in a primary. I feel there are many others who are in the same situation and are denied access to participate fully in the selection of our President. This bill would increase access to the process of choosing a presidential candidate for a voter's party. For that reason, I strongly support it.

**Jan Browne, President, League of Women Voters of Nevada:**

I support Ms. Cosgrove's position. I moved here in December of 2000. In my over 50-year-long voting history, I have voted in Connecticut, New York, Arizona, and California. I first encountered caucuses in this state and was appalled at the process. It flies in the face of everything I understand about democracy in terms of privacy of vote, strong-arming the poor player who is not in the first two to try to join something else, and the ability to exclude people. In 2008, we did not have enough ballots to vote, so people left in disgust. In 2016, it worked a little better where I was in Caughlin Ranch, but my sister, who lives in town in Reno, spent four hours in a line. She eventually made her way into a gymnasium where there were six to eight other precincts. She could not hear the speaker, and she finally left in

disgust, vowing never to participate again. I have had feedback from friends, and I know elected officials have had feedback. Anything that discourages people from voting flies in the face of what the League of Women Voters is all about. I would encourage you to do away with caucuses as quickly as possible.

**Maud Naroll, Member, League of Women Voters of Nevada:**

I am also married to a wonderful guy, and we go down together to vote in every primary and every election. He is a serious introvert. I could barely get him to go to our own wedding, much less anyone else's. For him to spend two, three, or four hours in a room full of all sorts of people is too heavy a lift for such an introvert. He is effectively disenfranchised as well. For the sake of my wonderful husband and all the other introverts out there, please support A.B. 293.

**Todd Bailey, Research Analysis Director, Nevada Accountability:**

We support A.B. 293, with a few comments that we may eventually propose as some friendly amendments. Generally, the bill is headed in the right direction. I think the idea of a caucus is a good one. This is where we are going to bring the best of the best of our community together in a room, talk about some really important ideas, have this exchange, and then come up with the best vote. I have never seen it happen. Most people that show up have already decided what they are going to do. I think in terms of caucuses in Nevada, we have had mixed results at best. Sometimes it is worse. It will be interesting to see who comes up and testifies against the bill and their reasoning behind it. I do not believe it affects our early primary status in any way. Nevada is a purple state and has been for over 150 years. I do not see that changing anytime soon. It will be a purple state in the next presidential cycle and probably many after that.

I think all of us are pretty confident in the idea of one person/one vote as opposed to a caucus. This protects the most vulnerable, the most unlikely to vote, and the minorities in the community of all stripes. One person/one vote is a principle we have relied on in the country for a long time in the most difficult election situations. I think that is something that we should go back to in terms of primaries in Nevada.

The prevention of voting in more than one primary should have stronger language. I think that has been a problem in caucuses, and if we have different days for primaries, it opens that door. I also believe we should make whoever a person votes for in a primary carry over to the general election. I am not sure why someone would switch except for reasons other than casting a legitimate vote.

I personally believe it should be required. I just spoke to the sponsor of the bill, and I understand his reasons for making it optional. I have not yet heard anyone come up and talk about why it would be a good idea to leave the decision up to the party's central committees because most of the problems that happen with the caucus can be traced back to some of the decisions, votes, and rule changes at the central committees.

This happens at county and state conventions as well. I think we should eliminate the doubts about our presidential primaries and not make it optional. I think if there is anything in the bill that needs an amendment, that would be the place that needs it the most.

It comes down to the decision makers' motivations at the central committees of any political party. What are their motivations? By the way, if they cannot come to a decision on that, they will just miss the date. Someone will miss the date, and they will be in the caucus status.

I think the primaries absolutely should be on the same date, not only to prevent any nefarious activities, but also for cost and logistics. Anyone who hangs around a registrar of voter's office around election time knows that. Why would we do that twice in one primary cycle?

**Chairwoman Diaz:**

I do not see any questions. Is there anyone else in Carson City to testify in support of A.B. 293? Seeing none, we will go to opposition. Is there anyone wishing to testify in opposition to A.B. 293? I do not see anyone in Las Vegas, so we will remain in Carson City.

**Doug Goodman, representing Nevada Election Modernization and Reform Act:**

Let me start by saying I am not opposed to presidential preference primaries per se. I believe that will increase participation in the nominating process of our next President. However, there are two concerns that I have with this bill. I think voters' expectations in a presidential preference primary election is that the results of the primary will be binding, with no exception, on the party. That is not the case with this bill or the Nevada Senate's counterpart.

Section 7, on page 8, line 3, states, ". . . and if consistent with the rules of the party . . . ." This gives the party wiggle room. I am not saying that is not the parties' rights, because parties are private organizations. Their right to control their internal operations versus the states' rights to conduct fair elections has been upheld by the U.S. Supreme Court in these cases: *Democratic Party of United States v. Wisconsin ex rel. La Follette*, 450 U.S. 107 (1981); *Tashjian, Secretary of State of Connecticut v. Republican Party of Connecticut*, 479 U.S. 208 (1986); and *March Fong Eu v. San Francisco County Democratic Central Committee*, 489 U.S. 214 (1989). My concern with the language in the bill is that it will be incumbent on the parties to explain to their members that the parties still maintain some right in determining the delegates. If the parties do not do that, there will be some very disappointed voters.

My second concern with this is that a caucus or a closed primary is an internal operation to the party. My concern is that when there is public funding of this internal operation of a political party, both the caucus and a preference primary, the only difference between the

two is the method of how the votes are being cast. The parties pay for their caucuses, as they should. If the party chooses to have a closed presidential preference primary election, which is an internal operation to the party, they should pay for that as well.

**Chairwoman Diaz:**

Is there anyone else wanting to testify in opposition to A.B. 293? [There was no one.] We will go to neutral.

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

I am here to testify in the neutral position; however, I think it is important that I mention that our office had hundreds of calls leading into the caucus and after the caucus in 2016 from voters who expressed their frustration with the caucus process and thought that our office had something to do with running the election. I feel that it would be a positive move. Our constituents have made it clear that they would like to see our office involved. I think my colleagues will agree with that statement in their testimony. I am very encouraged to hear that Assemblyman Araujo is willing to work with us, and I know my colleagues are also willing to spend as much time as they can to make this bill successful.

I have some concerns, beginning in section 20. It is our position that the dates for the election should be set in statute, not left to the state central committee for either party or the Nevada Secretary of State at the time the state central committee notifies the Secretary of State of their intention to hold a presidential preference primary election. In order to properly administrate an election, provide for reasonable cost, and provide for the logistical preparation, it is important to provide the timeline for elections in statute as it is currently done for our federal, state, and local elections.

It is of particular importance to our ability to plan that the presidential preference primary election date set for a specific date—whatever date that may be according to the sponsor. All dates for elections, support, and deadlines can move backward from this date when set in statute. Ninety days is too short a timeline to prepare for an election and meet federal deadlines for overseas ballots. That would also put the election right in the middle of our judicial candidate filings, which would strain our resources. In the years that both major parties hold a presidential preference primary election, it is important that both parties hold their election on the same day for many reasons.

Under section 24, it is important to keep voting periods consistent with other elections so as not to confuse voters. The extension of the early voting period for the presidential preference primary election would be inconsistent with the period for early voting in our normal election cycle. For this reason, I do not recommend this change to happen only in the presidential preference primary election. It is also worth noting that for other counties, especially the rural counties, if the electronic poll books that support early voting were used through Sunday, it would make it impossible to turn that equipment around for use on Election Day. That would be an extra challenge for them. Even in Clark County, where there will be an abundance of equipment, we would not be able to use that equipment moving into Election Day. We would need two sets of equipment to set up for that.

Under section 25, we are in the process of introducing vote centers for use in Clark County. If the voter registration was not electronic and transferred back to our database in real time, there would be no way to determine whether the voter has registered in multiple locations or in another county. We will not catch a double registration until after the election.

In section 27, the mail ballot regulations in current language assign the clerks to make arrangements for the details around mail ballots. I think it is important that the Nevada Secretary of State sets those guidelines, so all counties are following the same procedures and deadlines. Current deadlines utilized for federal, state, and local elections should serve as a guide for the Secretary of State to set regulations.

In Clark County, we have informally supported this type of election for parties in the past, and we would certainly be willing to do that in the future. Costs are tremendously reduced in this scenario, and we are more than willing to make these arrangements directly with the parties. However, if a formal process is desired, it may be possible to reduce considerably the cost of these elections by eliminating the need for counties to provide a sample ballot to all voters. Those voters who are interested in participating in a presidential preference primary election are well aware of who the candidates are as a result of media attention at election time.

The parties have never had issues promoting their caucus events. They have only had issues with the administration of the election. We could look at drafting the requirements for a presidential preference primary election, so the parties are still responsible for promoting the election to their members and providing polling place information. The counties would then be responsible to arrange for early voting and Election Day sites and providing an absentee ballot for voters. I believe this concept is worthy of discussion and could result in a much less expensive cost to support these elections. However, this does not eliminate the need to have the dates for the presidential preference primary election set in statute to allow election administrators to properly plan for the support of a presidential preference primary election.

One of the primary reasons I continue to stress that the dates should be set in statute is that there is a considerable amount of work the clerks and registrars do to make arrangements for polling places. In fact, in Clark County, we begin that effort in December leading into a June primary. By not having an Election Day set in statute, we would have to make two or three possible dates for an election set up with these facilities that currently support us. We are having a difficult enough time now getting them to give us the dates for the June primary and November general election. It might be something that would be very difficult to arrange.

**Chairwoman Diaz:**

I was thinking potentially about not having the same day for the primary or caucus, depending on what the parties decided to do. Legislators are very entrenched in the process and would be following it, but for a citizen, it could be confusing. If their friend is



saying that they are going to go vote in their primary, the person might think they have the same ability. If they are of the opposite party and had a caucus, I could see how that could be confusing to the citizen. You made very good points.

Are there any questions for Mr. Gloria? I do not see any, so we will continue taking testimony in the neutral position.

**Donald G.T. Gallimore, Sr., Private Citizen, Reno, Nevada:**

I was a caucus chair. The logistics of it are so cumbersome that I can see where going to a primary might be one of our best bets. Nevada is the third election state in the country, and that is important. That is why I am speaking in the neutral position now. There are some benefits and drawbacks to how the Democratic Party caucuses. The number of people who were at my caucus site went around the block and down two blocks. It was cumbersome at best. Our doors were opened at the prescribed time. When we finally got everyone in, they were in a small gym. We had to have one of our areas outside in an atrium, and it was a cold day. Some logistical problems with the caucus system need to be examined. I want to keep Nevada as the third election state, and I want to keep costs down. We have to come together and find common ground on this because Nevada does not want to lose its third state status.

**Luanne Cutler, Registrar of Voters, Washoe County:**

Mr. Gloria stole many of our hot points. I will touch on a few additional things that those of us in Washoe County would find administratively very challenging. Washoe County does not currently have a system in place that would allow us to register people to vote in the field. The only access to our database for voter registration is in our office. It is set up that way for a reason: It protects our database. We do not currently have the ability to do that. We would be happy to set up a location in our office where people could come and register on either Election Day or during early voting. Again, we do not currently have the ability to perform that function in the field.

Administratively, as Mr. Gloria also mentioned, the idea of running early voting until the Sunday prior to Election Day would make it challenging at best, and most likely, an impossible task for us to turn around the equipment that we received back from early voting on Sunday night and have it ready and in the polling place on Tuesday. That is another thing we currently do not have the ability to do even if we would like to be able to.

We would like to see early voting end, as it does now, on the Friday prior to the election to give us that weekend to get that taken care of.

I would also like to reiterate that it would be very important to us to have the election date set in statute. Ninety days after that October 1 date could put us to a point where we are running poll worker training during the Christmas holidays. It could also make it very difficult to recruit poll workers to work during that period of time.

Our concerns with this bill are mostly administrative and logistical. If some of these things could be worked out, we would be happy to move forward.

**Assemblyman Elliot T. Anderson:**

We keep on talking about the date, and it was something I had thought of as well because of the logistics. How do you think New Hampshire would handle that? Do you have any idea? It is also an early state. They have the flexibility for the Secretary of State to move it around. Do you have any idea how they are able to manage that logistically?

**Luanne Cutler:**

In all honesty, I cannot envision any way they can. I know from being at conferences with other election officials around the country, we all operate in extraordinarily different ways. They obviously have something in place. The system in Nevada, or at least in Washoe County, would not really allow that because we have very stringent deadlines in statute at this point.

**Assemblyman Elliot T. Anderson:**

To be fair, I do not know if New Hampshire has ever had to exercise that. I think they have always had time. There was some calendar movement in 2008 that led to them going up in response to Florida and Michigan, but they had plenty of time. I think they had applicable planning time, so they just moved up their framework. At a certain point, they probably would just be stuck due to the logistics. I just wanted to check in, but I see it is something we will not have a great answer to.

**Susan Merriwether, Clerk-Recorder, Carson City:**

I am here today representing Carson City and the rural counties in Nevada. We share the same concerns that the other registrars have presented. I want to bring up the voter registration system. We would need to have a new, updated, real-time voter registration.

As Ms. Cutler mentioned, we have concerns about hiring election workers for the holidays. In the north, our election workers are generally retired volunteers. I know many of them travel south to find warmer weather or leave town during the holidays. The big concern of having a primary in January and February is trying to recruit those workers who will not be in town to help us because the training is usually early on. That is one of my bigger concerns.

**Chairwoman Diaz:**

We have heard that this currently would not be a fluid operation because of what we have to do to run the elections. It would be difficult. We know the voting equipment is basically on its last leg. If Nevada were in a position to secure the funding for the counties to get new voting equipment, would the situation be different?

**Susan Merriwether:**

We are looking into replacing the voting equipment. We are talking about when someone comes in to register to vote or to change their political party; we would have to have the capability of doing that in a real-time process. Otherwise, when the person goes to vote, we want to make sure they are not voting in some other jurisdiction or at another polling place. The voter registration system that we use to look people up is what we would need. That would have to be real-time, connected voter registration. We would have to have either a laptop or electronic poll book connected, so the worker can look up if that voter is eligible to vote. Is that understandable?

**Chairwoman Diaz:**

It is clear. Voting equipment is one thing, but the voter registration systems in each county are different. Those are the electronic rosters, poll books, and so forth.

**Luanne Cutler:**

It is important to note that the systems used to register people to vote and to vet that information to make sure they are eligible are completely separate and do not speak at all to the systems that people use to cast a ballot. There is no connection between the two, so unless all the computers in the field on Election Day, or during early voting, can actually speak to each other, we do not have the ability to keep that under control. How we currently manage early voting is simply by pinging our database in a certain spot that marks that a person has voted. That is the only information that is shared among the sites in Washoe County. No one else has full access to the database. It is a static database that is sent out. It is not necessarily the voting part of a presidential preference primary election that would be the problem; it is the same-day registration that we would have a hard time administering.

**Assemblywoman Bilbray-Axelrod:**

Could Mr. Gloria answer that same question about the same-day registration and how it works in Clark County?

**Joe Gloria:**

It is very similar in Clark County as far as how it works in the other counties. What Ms. Merriwether and Ms. Cutler are trying to communicate is that the voter registration system and the voting system are completely different in the systems we use. The voter registration system needs to be in real time, and that information is going directly to the database. There are actually two databases there as well.

In Clark County, if someone came in for same-day registration, we would need to update our voter registration rolls and have our vendor work a patch in simultaneously to update our poll book, which is the database all the voters are put in according to the registration deadlines. It is a complex set of operations that needs to be put in place in order for Clark County to be able to handle and uphold the integrity of the process. It is not impossible. In fact, we are already in communications with our vendor to arrange for that type of operation.

Another thing is that Nevada's voter registration system is bottom up, not top down. It would require the Secretary of State to have a system in place where Clark County could bounce records to the Secretary of State, and then all the counties could see that activity. There is a lot that needs to be put in place in order to make same-day registration work.

**Chairwoman Diaz:**

Are there any further questions? [There were none.] Is there anyone else here to testify in the neutral position?

**Wayne Thorley, Deputy Secretary for Elections, Office of the Secretary of State:**

I am here on behalf of Secretary of State Barbara Cegavske. I would like to personally thank the bill sponsor, Assemblyman Araujo, for his earlier comments and his willingness to work with the Office of the Secretary of State and the local election officials on this bill. He personally called me prior to the hearing, and we appreciate his willingness to engage in those conversations. I can mostly say ditto to everything that Mr. Gloria, Ms. Cutler, and Ms. Merriwether said, but I would like to reiterate a couple of points.

Section 20 leaves open the possibility that there would be two separate dates for the presidential preference primary election: one for the Democratic Party and one for the Republican Party. I just want to stress again that the Secretary of State's Office believes that would be very difficult to accomplish.

All the other points that have been mentioned are very valid. It could lead to voter confusion. Having both presidential preference primary elections on the same day would eliminate any concern related to double voting in the presidential preference primary elections. The Secretary of State's Office believes that the date should be the same and agrees with Mr. Gloria that it should be prescribed in statute.

Currently, the regular primary election is prescribed in statute as the second Tuesday in June. The general election is prescribed in statute as the first Tuesday after the first Monday in November. They are very specific dates. The Secretary of State's Office agrees that any presidential preference primary legislation should include a specific date on which the election could be held for planning purposes.

Regarding section 24, I will reiterate what the local election officials said about the short turnaround time. Extending the early voting period would drastically limit the turnaround time between the end of early voting and Election Day. There are many

processes that go on over that week. Right now, it would be very difficult to get ready for Election Day if the early voting period was extended through Sunday. It would give the counties only one day, Monday, to prepare for the election.

If the Legislature believes that more opportunity needs to be given to voters for the early voting period, the Secretary of State's Office believes there are other ways to accomplish that, such as adding more days at the beginning of the early voting period or mandating more locations or longer hours. I should note that early voting's popularity has grown in Nevada, and it is extremely popular. Right now, just under one-third of our voters vote in person during the early voting period, so it is extremely popular. As that popularity has grown, the local election officials have done an excellent job in meeting that demand by opening more locations and keeping longer hours at the locations. The Secretary of State's Office believes they have done a great job and will continue to do a good job under the existing structure with the 14-day early voting period.

Lastly, in section 27, the Secretary of State's Office dittos what Mr. Gloria said. This section would allow each county or local election official to establish their own rules or regulations related to absentee ballots. Federal law, specifically the Help America Vote Act (HAVA), requires states to establish uniform statewide standards in each county, so all elections are administered in a uniform fashion in the state. By leaving the decisions on absentee voting to each individual local election official, we run the risk of having a nonuniform standard when it comes to the absentee ballot process. The Secretary of State's Office would like to have that uniform standard so Nevada is consistent with federal law and what it currently does. The Secretary of State's Office's preference would be to have the Secretary of State establish those rules and regulations related to absentee balloting for presidential preference primary elections, so it is uniform across the whole state.

**Chairwoman Diaz:**

I am not seeing any questions. I do not see anyone else coming to testify in the neutral position, so I will invite the bill sponsor, Assemblyman Araujo, to make his concluding remarks regarding A.B. 293.

**Assemblyman Araujo:**

I just wanted to say thank you and remind everyone that I will be spending the next couple of days working diligently with all partners to ensure that we can reach a good compromise and get policy passed. I will report back to the Committee once we have reached some compromises on all the proposed changes and amendments.

**Chairwoman Diaz:**

With that, I will close the hearing on Assembly Bill 293. We will now hear Assembly Joint Resolution 10 of the 78th Session, which was in 2015. To clarify, the Committee is looking at A.J.R. 10 of the 78th Session. I will let Assemblyman Kramer begin his remarks. Assemblyman Ohrenschall is also at the table.

**Assembly Joint Resolution 10 of the 78th Session: Proposes to amend the Nevada Constitution to revise provisions relating to the compensation of certain elected officers. (BDR C-1068)**

**Assemblyman Al Kramer, Assembly District No. 40:**

I am here to speak in support of Assembly Joint Resolution 10 of the 78th Session. Assembly Joint Resolution 10 of the 78th Session was a constitutional amendment passed in the 78th Session to create the Citizens' Commission on Compensation for Certain Elected Officers. Under current law, the Legislature is responsible for establishing the salaries and benefits of Nevada's constitutional officers, members of the Senate and Assembly, justices of the Supreme Court, judges of the Court of Appeals, and district court judges. The Legislature is also responsible for setting the salaries of various county elected officials.

As the Legislature is solely responsible for setting these salaries, these groups are required to lobby the Legislature whenever changes are needed, which unfortunately, politicizes what is normally a function of human resources. This constitutional amendment seeks to remove the politics from these decisions by giving this power to a citizens' commission.

I have a unique point of view on this particular issue. As many of you know, I was the elected Carson City Treasurer for 20 years. During that time, any pay increase county elected officials received was dependent on getting a salary bill through the Legislature. Every couple of sessions, the County Fiscal Officers Association of Nevada, which is supported by the Nevada Association of Counties (NACO), would come to the Legislature to try to get a pay increase for locally elected officials. This would drive guys such as Jeff Fontaine crazy. Sometimes we were successful, but often we were delayed getting pay raises. The normal time between pay raises was six to eight years. This meant that the pay raise itself would seem abnormally high, which caused resistance.

My hope is that with a citizens' commission reporting to the Legislature each session, these long waits and spectacularly large raises would not happen in the future. Assembly Joint Resolution 10 of the 78th Session brings confidence back to the process for both the candidates and the public.

I urge you to support Assembly Joint Resolution 10 of the 78th Session. This concludes my remarks.

**Assemblyman James Ohrenschall, Assembly District No. 12:**

Two years ago, Assembly Joint Resolution 10 of the 78th Session was sponsored by former Assemblywoman Dooling and cosponsored by former Assemblyman Gardner. Both worked very closely on this bill. I believe former Assemblyman Gardner is on his way to the Grant Sawyer State Office Building and is hoping to testify. He is running about 10 to 15 minutes late, so I will see if Assemblyman Kramer and I can talk for 10 to 15 minutes, and the Committee can ask questions.

This is not an easy issue. Since I was first elected in 2006, I have not been a big fan of the Legislature delegating its authority because there are constitutional reasons it has that authority. This resolution, however, is a proper delegation. I think that it is a delegation that benefits our constituents in that it takes a decision that should not be political, the salaries of different elected officials such as the judiciary, the Legislature, and other branches, and assigns it to the Commission. Because it is a constitutional amendment, it would have to pass this session in the identical form that it passed last session. If it does pass this session, it would have to be approved by the voters at the 2018 general election. During the last session, there were three amendments as to how the commissioners would be selected. Initially, it was divided among the Majority and Minority Leaders of the Legislature and the Governor. The final version was to have the Governor make all the appointments.

If you look at the requirements for qualifications and various backgrounds of the Commission members, there is a good cross-section in terms of who the commissioners will be. I believe that this is a sound delegation of our authority. I hope the Committee will consider processing it. I am happy to answer any questions.

**Assemblyman Elliot T. Anderson:**

I have a comment. I wanted to indicate my support again. I supported this throughout last session. I think it is important to remove this from the Legislature's control. This provides a process that gets it out of the political process and ensures that citizens of Nevada directly have a say in what we are paid. I have never agreed with locking things down with a term. This allows people actively to consider what the salaries should be and then adjust. What worked in 1864 may not be what works in 2017 and may not be what works in 2050. By ensuring that the Commission can meet, it gives more flexibility than leaving things the way they are done now.

**Assemblyman Ohrenschall:**

Last session, A.J.R. 10 of the 78th Session passed through a Republican-controlled Assembly and a Republican-controlled state Senate. There is no action needed by the Governor on a proposal to amend the *Nevada Constitution* such as this. This session, we are hopeful that the same sound policy will pass through a Democrat-controlled Assembly and Democrat-controlled state Senate. It will give our constituents a chance to vote on this in 2018.

If this passes, Nevada will become the twenty-fifth state in the United States with such a compensation commission for different elected officials. The branches of Nevada's government are supposed to be equal, so legislators would not be deciding what judges are paid and whether they get a pay raise or what county clerks and those officials are paid. That is a sound delegation of our authority.

One other point I wanted to mention is that last session, this passed unanimously out of this Committee. It had bipartisan support. In the Senate, it passed 19 to 1. There were 19 in favor, 1 nay, and 1 absent. In the Assembly, it passed 27 to 15. It had more

bipartisan support in the Senate than in the Assembly. While mostly Republicans supported it, there were Democrats like Assemblyman Anderson and me who supported this. I think it is fair that this resolution had bipartisan support two years ago.

**Chairwoman Diaz:**

You are saying that the violence between the Judicial and Legislative Branches will go away because we are not setting each other's salary schedules.

**Assemblyman Ohrenschall:**

That is not exactly what I am saying, but the Commission would certainly depoliticize this issue. The way the resolution is structured, if any members of the Commission are not performing their required duties, the Governor can remove them. Looking at page 2, Section 33A, it is a broad cross-section that the Governor needs to draw from in terms of members of the business community, labor organizations, someone who is experienced with the Public Employees' Retirement System (PERS), and nonprofits.

**Assemblyman Kramer:**

The way this will work is that the Citizens' Commission will conduct a study of the work performed by each office and compare the duties with the salaries currently received. They will then determine a reasonable and fair compensation for each office. The Citizens' Commission will have the ability to increase or decrease salaries and benefits as necessary. The Citizens' Commission is independent of any Executive, Judicial, or Legislative approval. They would have the authority to fix the schedule as a body after taking public testimony at a minimum of four public meetings. All meetings of the Commission will be subject to open meeting laws. This is a recap to show how this would put together these meetings.

**Chairwoman Diaz:**

Are there any questions? Mr. Powers, if this passes, there can be no amendments made to A.J.R. 10 of the 78th Session to get it on the next ballot. I just wanted to clarify that we do not seek to amend A.J.R. 10 of the 78th Session unless we want to start the process all over again. Is that accurate?

**Kevin Powers, Committee Counsel:**

That is accurate. Article 16 of the *Nevada Constitution*, which controls the amendment process, provides that the next Legislature that considers a proposed constitutional amendment must pass it in the same form as the prior Legislature. To change this, this Legislature would have to submit a new joint resolution, have it approved by this session, and send it to the next session, which would have to approve that identical joint resolution. It would therefore extend the process. In order to put this on the ballot in 2018, this Legislature would have to pass this in the exact same form.

**Assemblyman Elliot T. Anderson:**

I have a question for our legal counsel. Would this just apply to the salary and benefits of public officers?



**Kevin Powers:**

It would apply to salaries and benefits for the state officers. For the local officers, it would just be salaries. The benefits of the local officers would still be set by the local governments.

**Assemblyman Kramer:**

This joint resolution on page 2, line 18, adds some data and blocks out some data. To do this for legislative salaries, it has to take out the language in there in order to give this new commission the ability to set salaries. It removes the current constitutional language about legislative salaries, so it can be replaced.

**Chairwoman Diaz:**

I do not see any further questions, so we will go to those wishing to testify in support of A.J.R. 10 of the 78th Session.

**Lynn Chapman, State Vice President, Nevada Eagle Forum:**

We are for this resolution. We were for this resolution last time as well. We would like to keep a citizen legislature. I think it is helpful if they got a raise. Having a commission made up of people from different organizations working together as a broad representation that sits and discusses things like that would be a great idea going forward.

I am here on my time and my dime, so I know how hard it is. I am not paid. Legislators are barely paid. It is tough to do all this work. I think legislators deserve a raise. We are in favor of this.

**Janine Hansen, State President, Nevada Families for Freedom:**

We supported this last time. We support it this time. We feel that legislators deserve to have a raise. It is only reasonable. We have long supported the fact that legislators should be paid a reasonable amount. We feel that this is the only thing that has ever passed that might make it through to make that possible. We support that.

**Chairwoman Diaz:**

I do not see any questions from Committee members. We will go to those in opposition to A.J.R. 10 of the 78th Session.

**Todd Bailey, Research Analysis Director, Nevada Accountability:**

I will be the outlier on this and be opposed to A.J.R. 10 of the 78th Session. There are quite a few reasons in the bill. First of all, in Section 33A, Subsection 2, the members of the Commission should not be appointed. If we truly want to know the voice of the average Nevadan in the setting of these kinds of salaries, I believe the members of the Commission should be elected, just like many other people are elected to important positions. Everyone feels like these salaries are an important thing, which is why we are changing the *Nevada Constitution* to do it. The members of the Commission should be elected, not appointed.

In Subsection 3, it says, "Each member of the Commission must be a resident of this State and must not be a state officer . . . ." That is good language, but it is not strong enough. There are still some loopholes. Perhaps we will offer some language.

In Subsection 4, the members of the Commission would have a four-year term. I believe that is incorrect. It should be a two-year term. As we have seen, there is voter backlash on the salary issues. I will harken back to the one where, in some peoples' minds, four legislators had high salaries and nice benefit packages upon retirement after a certain term. The voter backlash to that was so strong that the Governor had to call a special session, and they had to rescind that. Voter backlash can be strong. It can go beyond the issue of salaries. It is not limited to the issue of salaries.

Subsection 5 says, "The Governor may remove a member . . . ." I do not believe that is correct. The Governor should not have that power. That should be reserved for, say, the state Senate in a process of impeachment or something like that. I believe the Governor is being given too much power in this proposed change to the *Nevada Constitution*.

Subsections 8 (a), 8(b), and 8(c) are inherently inflationary to the Nevada economy. Inflation is a number of subliminal or subtle signals people give to each other. When we are prepared to raise a salary over here, another group may decide they should see that equal salary increase. It spreads until it works its way all around the circle. Then, someone sees that everyone's salary was raised, decides they need a little more, and it happens again. This is building inflation into the cost of government at every level of government in Nevada with A.J.R. 10 of the 78th Session.

In Subsection 8(e), it says "Carry out any duties provided by the Legislature." It is only going to go up. All of these salaries are only going to go up. What that comes down to is that the Legislature is voting for a pay raise for themselves, which I would actually support. Let us do it here in the Legislature. I think that can be done. Everyone knows that members of the Nevada Legislature are among the lowest paid public officials. The only people who sit a little lower than that are school board members. Last session, I am on record as being the only person who offered an amendment to raise that level to \$3,000 in some of our biggest school districts in Washoe and Clark Counties. I am aware of the issue, but it should be done at the Nevada Legislature.

In closing, I believe it is an improper delegation of the Legislature's constitutional authority. Do not count on voter approval. We figured this out. That is why the current constitutional protections are in there. Those are not from 150 years ago; those current amendments are from the last century, maybe 20 or 30 years ago.

I hope you consider my points before voting this out of Committee. I am open to questions.

**Assemblyman Elliot T. Anderson:**

When you mentioned the special session, was that the pension special session where they raised it from \$25 to \$75?

**Todd Bailey:**

I do not know the details on that, but that was initiated by Senator William Raggio and others at the Legislature at the time. There was a salary increase, but the big thing was the pension after a term of service that voters found excessive. It created such a backlash that the Governor at the time had to call a special session to rescind that law.

**Assemblyman Elliot T. Anderson:**

I do not want to belabor this point, but I think that the tripling of the pension was from a ridiculously small amount to \$75.

**Todd Bailey:**

I am not disagreeing with you. I am simply pointing out that the voter backlash on that was strong. I think moving it to an appointed commission that the Governor controls through approval or removal is not going to make it any less political.

**Assemblyman Elliot T. Anderson:**

Then I suppose there is no harm in letting the voters choose. The Legislature put something forward that said legislators would be paid for 120 days rather than 60, and that failed. I do not think most people make the connection that we are not overpaid congressional representatives making \$180,000. By giving the imprimatur of this to non-decision makers, there is that space where it is not legislators doing it, and the public thinking they are trying to raise their own pay. I am assuming the appointed people would be professionals who know business well and can figure out what adequate compensation is without it having the stench of it coming from politicians. That is the whole point of allowing the Governor to appoint. There could be professional members of the business community and others who have done a lot in their lives and who think about running government like a business. I do not think anyone would ever run for this.

**Todd Bailey:**

It might be difficult finding candidates who would run, considering the cost and difficulty in running for election. I would concur on that point.

**Assemblyman Elliot T. Anderson:**

I would just note that the effect on legislators is going to be fairly minimal considering there are 63 of us. So many other state officers have much more at stake. That is where there will be impact from this. While it may be looked at as a legislative maneuver, I do not look at it that way. It would affect far more people who make a lot more money than us. I could easily see there being an effect that you might actually like.

**Todd Bailey:**

I think fiscally, you are absolutely correct. It is mostly the other officers that are going to have the fiscal impact. I think the legislative pay will also be one of the first things the Commission addresses, because many people feel that legislators are underpaid. Even when one considers legislators' total compensation, such as travel expenses, per diem,

and other things, it is varied based on where the legislator is located. Generally, I agree with what you are saying. It is not the Legislature that would benefit most of all. My general point is that responsibility belongs in this building. There can be disagreement about that.

**Assemblywoman Bilbray-Axelrod:**

I want to be sure that I heard this right. It is your opinion that voters would not approve of the Legislature voting for a Commission to look independently at this, but you think that voters would be in favor of legislators voting to give themselves a raise.

**Todd Bailey:**

It does sound strange, but I will stand by that. Once voters understand, I do not think voters will support it. The Legislature is taking their voice, which is currently represented by 63 people in two different chambers, and limiting it to a group of 7, who are appointed by the Governor and can also be removed by the Governor. I think the people's voice at that Commission is going to be more limited on the issues of salaries and benefits than it is at the Nevada Legislature.

**Assemblywoman Monroe-Moreno:**

Do you think voters would be more accepting if the Commission was made up of appointees from the Governor and appointees from the legislative body?

**Todd Bailey:**

I cannot give you an answer to that. I do not know. My default is to go to some sort of an election; however, I think the point that Assemblyman Anderson made is right on the money. Who is going to run? That is the quandary here. Who are the decision makers going to be? Will that be the Governor or split between the Legislature and the Governor, like on other commissions, which has had varying degrees of success? That is an important issue. If the Legislature is going to delegate this authority, who gets to be the decision maker? I do not have a very good answer to that because I am not in support of A.J.R. 10 of the 78th Session.

**Assemblyman Elliot T. Anderson:**

Generally, I agree with you in terms of not having things in the *Nevada Constitution* and improper delegation. The reality is because the salary is set in the *Nevada Constitution*, the Legislature does not get the choice to represent our constituents. In constitution drafting, it is referred to as a "dead hand" problem. The majority of people elected are restrained from doing something. For many things, that is correct. Traditionally, the founding fathers said that we need to protect politically vulnerable people in the *U.S. Constitution* and stop the majority from trampling over their rights.

When we talk about something as basic as a salary, we are more than capable of being unelected over an issue like that if we screw it up. That is my argument of why it should not be in the *Nevada Constitution*. That being said, now it is in there, so we have to deal with that in terms of the legislative context. I do not want us to go too far down this rabbit hole because in terms of the fiscal impact, it is going to be negligible based upon anything that

this proposed commission would do with legislators. I just wanted to make that point as to why I think we are here when things like that are done to legislators in the *Nevada Constitution*.

**Todd Bailey:**

I am not implying what you are wiggling around the edges of, even though I am saying that legislators are essentially voting themselves a pay raise in my closing statement. In a commission such as this, it will probably come up first. There are going to be people on both sides of the aisle, including myself, saying this is going to be one of the first things you should take a look at. I simply think we should do that in this building.

**Chairwoman Diaz:**

Before I get to Mr. Gardner, I wanted to ask Mr. Powers a question. Does the Citizens' Commission on Compensation for Certain Elected Officers have to notify the public that they are going to be scheduling a meeting? Will they take public comment? Will the citizenry of Nevada be able to have input in this process? There seems to be a concern about citizens having input into the dialogue.

**Kevin Powers:**

There are provisions in the joint resolution that require the Commission to hold public meetings and comply with the open meeting laws that apply to public bodies, generally. Before any time they adopt a schedule, which is on a two-year period, they have to hold at least four public meetings or more. Those public meetings have to comply with the open meeting laws that apply generally to all other public bodies.

**Chairwoman Diaz:**

With that, I would like to welcome former Assemblyman David Gardner.

**David Gardner, Private Citizen, Las Vegas, Nevada:**

The Legislature passed this bill last session. I was a co-primary sponsor of it. The point of it is to get the Legislature out of human resources-type functions. This bill creates a citizens' commission with seven people on it. Each one of those people has a certain parameter they have to fit into, and there is a requirement that they be diverse personally and professionally in their interests and reside in various geographical areas of the state. One member must have expertise in public compensation and be recommended by the PERS Board. One member must represent a nonprofit public interest organization. One member must represent the general public. One member must have experience in business in Nevada and be recommended by an organization that represents business interests in the state. One member must have experience with the operations of a retailer in Nevada and be recommended by an organization that represents retailer interests in the state. Two members must have experience as officers or members of a labor organization in Nevada and be recommended by a labor organization in the state. That is the gist of it.

I heard that people were concerned about giving all this power to the Governor. When we originally drafted this bill, it had a split. The Judiciary had one seat on this seven-person panel who they could appoint. The Legislature had several, and the Governor had several. It was decided on the Senate side that it would be better to get the least amount of elected officials involved in this to try to make it as public a thing as possible. We do not want a bunch of elected officials involved. We want the public involved. That is why we have the mandatory four meetings. That is why they have to comply with open meeting law. Those four meetings are not before they decide what they want to do. The Commission sets the schedule, decides what they want to do, and then have four public meetings to hear from the public to ask what the public thinks. That was the reasoning behind it. Beyond that, I think that this is a necessary thing. Twenty-four states throughout the country have already done this. Liberal states such as California and conservative states such as Arkansas have done this. It is pretty bipartisan. The idea is to get politics out of the discussions about compensation.

**Chairwoman Diaz:**

I do not think we have any questions. Are there any closing remarks?

**Assemblyman Paul Anderson, Assembly District No. 13:**

I was not invited, but I am happy to be up here. I apologize for all the time changes and constraints. I thank former Assemblyman Gardner for being with us today. He provided many of our upfront discussions. I am here in support of getting the human resources functions out of the legislative body. I think that is where a lot of the confusion lies. We are citizen legislators. It is important to get experts involved where we can and allow them to function in their expert ways to help us make decisions and take some of these things off our shoulders. I do not have any particular comments beyond that.

**Assemblyman Ohrenschall:**

I wanted to clarify a couple of points. Our committee counsel mentioned that the open meeting law, Chapter 241 of NRS, would apply to this commission and all its meetings. That means that public input will be there as to how the economy is going and the comparison of salaries recommended in Nevada versus salaries in other states. Subsection 9 says, "Except for the initial schedule of salaries and benefits for elected officers filed pursuant to subsection 10, the Commission may not increase or decrease the salary of any elected officer by more than 15 percent . . . ."

That means that it is very possible that if the Commission believes it is appropriate, salaries could be recommended for a decrease. It is not automatically going to be an increase. I think it is important this Committee understands that. The Commission will have that authority. They will have that 15 percent range up or down, but they could go down regardless of whether it is a legislator's salary, a district attorney's salary, or a state Supreme Court justice's salary. We are co-equal branches of government. The Legislature deciding what a Supreme Court justice, a county clerk, a district attorney, or legislators are paid is a human resources decision that would be a proper delegation of authority.

**David Gardner:**

Ditto to what everyone else said. I appreciate this, and I think this is a good thing for the state, especially with the limitations built in. In other states, it has actually been shown to work. For example, California lowered their elected officials' salaries quite a bit during the recession. New York did the same thing. Most states did. This ties compensation much more to what everyone else is going through. I think that is a good thing. We are always concerned about conflicts of interest up here. A person cannot be more conflicted than voting on their own wages. I like the idea of getting this out of the Legislature's hands and to a group with expertise to decide what is the best way based on facts, not politics.

**Chairwoman Diaz:**

With that, I will close the hearing on A.J.R. 10 of the 78th Session. I will open it up for public comment. Seeing none, this meeting is adjourned [at 3:34 p.m.].

RESPECTFULLY SUBMITTED:

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Julianne King  
Committee Secretary

APPROVED BY:

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Assemblywoman Olivia Diaz, Chairwoman

DATE: \_\_\_\_\_

## **EXHIBITS**

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is written testimony written and presented by Sondra Cosgrove, Chair, Legislative Committee, League of Women Voters of Nevada, in support of Assembly Bill 293.