

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

**Seventy-ninth Session
May 8, 2017**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Nicole J. Cannizzaro at 3:46 p.m. on Monday, May 8, 2017, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Nicole J. Cannizzaro, Chair
Senator Tick Segerblom, Vice Chair
Senator Kelvin Atkinson
Senator James A. Settelmeyer
Senator Heidi S. Gansert

GUEST LEGISLATORS PRESENT:

Senator Joyce Woodhouse, Senatorial District No. 5
Assemblyman Elliot T. Anderson, Assembly District No. 15
Assemblyman Ira Hansen, Assembly District No. 32

STAFF MEMBERS PRESENT:

Michael Stewart, Policy Analyst
Kevin Powers, Counsel
Jan Brase, Committee Secretary

OTHERS PRESENT:

Sondra Cosgrove
Tyre Gray, Las Vegas Metro Chamber of Commerce
John White, Chancellor, Nevada System of Higher Education
Joe Sunbury, Chief Internal Auditor, Nevada System of Higher Education
Rick Trachok, Chair, Board of Regents, Nevada System of Higher Education
Cedric Crear, Regent, Board of Regents, Nevada System of Higher Education

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Sam Lieberman, Regent, Board of Regents Nevada System of Higher Education
Chet Burton, President, Western Nevada College
Kyle Dalpe, Interim Dean, Technical Sciences, Truckee Meadows Community College
Kent Ervin, Nevada Faculty Alliance
Mark Nixon, Chairman, Mineral County Regional Planning Commission
David Ellis, Mineral County Regional Planning Commission
Shelley Hartmann
Dave Larsen
Mac Potter, Vice President of Operations, Nevada Casino Holdings; El Capitan Lodge Casino
Cynthia Oceguera, Walker River Paiute Tribe

CHAIR CANNIZZARO:

We will reconvene with our consideration of Assembly Bill (A.B.) 390 and Assembly Joint Resolution (A.J.R.) 5.

ASSEMBLY BILL 390 (1st Reprint): Makes various changes to state governmental administration. (BDR 23-102)

ASSEMBLY JOINT RESOLUTION 5 (1st Reprint): Proposes to amend the Nevada Constitution to remove the constitutional provisions governing the election and duties of the Board of Regents of the State University and to authorize the Legislature to provide by statute for the governance, control and management of the State University. (BDR C-60)

ASSEMBLYMAN ELLIOT T. ANDERSON (Assembly District No. 15):

Assembly Joint Resolution (A.J.R.) 5 removes the Board of Regents from the Nevada Constitution but does not substantively change higher education policy or procedure. The resolution puts the Board of Regents and the Nevada System of Higher Education (NSHE) on par with every other governing board and State agency created pursuant to statute. *Nevada Revised Statutes* (NRS) 396 would continue to comprehensively regulate higher education. The statute would continue to require the election of members of the Board of Regents as outlined in NRS 396.040.

Constitutional government serves as an antiquated way to govern higher education in Nevada. It is unique in the way we structure our system. Although other states have their governing bodies in their constitution, Nevada is the only

state that has its entire system governed by one single-elected board that also has constitutional status. The only reason it is in the Constitution goes back to accessing the Morrill Land-Grant Act of 1862 upon gaining statehood without any action on the part of the Legislature. At that time, it was not certain the Legislature would create a Board of Regents. Ever since that time, we have jammed all the State's higher education governance and administration under this provision, despite a number of studies recommending changes to the State higher education structure.

Somewhere along the way, we lost sight of the fact that the Nevada Constitution creates the Board of Regents and gives it authority to govern a State university which shall embrace departments of agriculture, mechanic arts and mining, as required by the Morrill Act. As the Legislative Counsel Bureau and legal scholars have repeatedly argued, all other authority over higher education is under the purview of the Legislature.

A reading of the minutes of the Nevada Constitutional Convention demonstrates a misinterpretation of the original intent. Article 11, section 4 of the Nevada Constitution states, "The Legislature shall provide for the establishment of a State University which shall embrace departments for Agriculture, Mechanic Arts, and Mining to be controlled by a Board of Regents whose duties shall be prescribed by Law." The original language did not include the words "whose duties shall be prescribed by Law."

During the Nevada Constitutional Convention of 1864, George Nourse, a Washoe County lawyer and convention delegate, declared support for Article 11, section 4 if language was added to require that the Board of Regents' power and duties are prescribed by the Legislature.

The Board of Regents does not have absolute control over the System of Higher Education. The constitutional intent was to allow the Legislature to pass laws related to higher education in the same way laws are enacted for every other agency and governing board without answering to constitutional claims.

Yet, the notion that Nevada's constitutionally defined unified system of higher education precludes a role for the Legislature persists and is often used to obstruct efforts to align higher education governance and administration with the State's demographic and economic needs. Indeed, NSHE regularly interprets the provision to suggest that it is the fourth branch of government, extending

the constitutional authority of the Board of Regents to govern the three branches of the University of Nevada to a bureaucratic agency funded by the Legislature. Constitutional status for NSHE has created an insulated culture which needs to change. In legal briefs, the Board of Regents has argued it has virtual immunity from legislative acts. When NSHE litigates or lobbies, the constitutional status is used for exemption from legislative requirements. In short, the provision has become an impediment to reform.

Opponents have argued that the Legislature is too political and, therefore, the Board of Regents should remain in the Constitution. The framers of the Constitution never intended for the Board to be insulated from politics. Members of the Board are elected, and sometimes politically motivated candidates are elected to the Board.

I am more worried about the ability of the Board to be insulated from politics than I am the Legislature. The Board has 13 members while there are 63 elected officials to the Legislature. The people of the State focus on Legislative Sessions which is a mitigating factor in our actions and on political forces relating to higher education. There are more higher-education stakeholders participating in the legislative process than there are in the activities of the Board of Regents.

As recent events indicate, an elected part-time Board composed almost exclusively of individuals with little to no background in higher education policy is unable to manage the sprawling higher education apparatus that has flourished under these arrangements. In practice, this arrangement results in too strong an education bureaucracy. In the meantime, Nevada is failing in higher education performance and is the only state of its size without a university obtaining top Carnegie Classification of Institutions of Higher Education rankings.

If you are different and you are successful, then you are a model. If you are different and failing, then change it. It is time Nevada changed the way higher education is governed, and A.J.R. 5 is an important step in doing so. We can have a full-ranging discussion about the structuring of higher education governance.

SENATOR GANSERT:

Assembly Joint Resolution 5 does not affect me any more than any other groups affected by the resolution. Therefore, I am not required to disclose under Senate Standing Rule 23. However, under an abundance of caution, I am disclosing that I am an employee of NSHE and will participate in the discussion.

There is a general principle that the closer a governing entity is to an organization, the more effective the governance. The Board of Regents is solely focused on higher education in a way the Legislature is not. Would the Legislature be a better management entity than the Board?

ASSEMBLYMAN ANDERSON:

We do not propose removing the function of governance from the Board of Regents. Assembly Joint Resolution 5 would classify NSHE as any other governing board or commission created pursuant to statute such as school boards. The resolution would allow for a full-ranging conversation about higher education governance and would allow the Legislature to be involved when it is appropriate to hold the Board of Regents accountable for its actions.

CHAIR CANNIZZARO:

I have a question regarding A.B. 390. Section 1 protects State officers or employees of State agencies who disclose to the Legislature or Legislators that false evidence has been disseminated by or on behalf of a State agency. It also protects State officers or employees who disclose evidence of illegal activity of a State agency. Language in section 1, subsection 4, paragraph (a), subparagraph (1) defines Legislator as current or former members of the Senate or Assembly of the State of Nevada.

Do you envision this covering circumstances where State employees who are experiencing disagreements with their supervisors speak to Legislators in an effort to protect themselves from disciplinary actions?

SENATOR WOODHOUSE:

Assembly Bill 390 addresses circumstances when employees are aware of illegal activities or the dissemination of false evidence. The bill protects these employees from retaliation by their agency. We envision giving employees the option of speaking with Legislators.

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ASSEMBLYMAN ANDERSON:

Our intent is to focus on illegal activity and/or the dissemination of false information by State agencies. Assembly Bill 390 has been amended to remove employees' rights to speak to the Legislature for any reason. My preference is to provide that right to university presidents, but it is not constitutionally permissible.

Our goal is to ensure the Legislature receives accurate and timely information.

SENATOR GANSERT:

Can you outline other whistleblower statutes? How can employees report wrongdoing in their agencies? Who can they report to?

ASSEMBLYMAN ANDERSON:

Section 2 of A.B. 390 addresses the issue of chain of command, amends NRS 281.611 and adds language to the whistleblower law. The bill also adds special protections to State employees providing information to the Legislature. State employees can report directly to Legislators.

SENATOR GANSERT:

The bill applies to any employee in State government. Is that correct?

ASSEMBLYMAN ANDERSON:

Yes.

SONDRA COSGROVE:

I am a professor at the College of Southern Nevada (CSN). I am a past Faculty Senate Chair and past President of the CSN Faculty Alliance. I support A.J.R. 5 which proposes to remove the Board of Regents from the Nevada Constitution. Making the Board of Regents a statutory body could help my students. I am a civic-minded individual, and I exercise my right to be engaged with the legislative process. I followed the Clark County School District reorganization process. The Clark County School District and Title 1 students will be helped because of the process.

My community college students share many similarities with K-12 Title 1 students and could benefit from similar legislative interests and concern. The ability of NSHE institutions to interface with Legislative

Committees on the same level is hindered because of the constitutional status of higher education's governing body.

TYRE GRAY (Las Vegas Metro Chamber of Commerce):

The Las Vegas Metro Chamber of Commerce takes changes to the Constitution seriously. We support A.J.R. 5. It is an important step in moving the State's education system forward.

JOHN WHITE (Chancellor, Nevada System of Higher Education):

We are not concerned about a SAGE Commission review, but such a Commission would need to be cautious about respecting and adjusting to a world of shared governance. Business people are not familiar with the process.

I teach and write on the subject of civil rights law. I support whistleblower protections in general and defend antiretaliation provisions and civil rights statutes. I have advocated for First Amendment protections that operate as whistleblower protections. Notwithstanding my long support, the provisions of A.B. 390 are too broad, and they threaten to render our campuses unmanageable. The bill disturbs the delicate balance that has been struck between statute and the First Amendment. It provides no new protections for those commenting on matters of public concern but does bring under its protection the possibility of those asserting private interests cloaked as whistleblower claims.

The original bill applied to comments by State employees on any matter. We appreciate the amendment limiting the protection to State employees disclosing that false information has been disseminated to the Legislature. Assembly Bill 390 is still too broad and does two things. It expands Nevada's traditional whistleblower provisions by extending the traditional protections to a new set of activities defined in section 1, subsection 1. We have no objection to protecting employees who make public the fact that false testimony has been shared with the Legislature. We oppose this section because the covered behavior applies vaguely to employees who seek to communicate with the Legislature. It might be argued the employee need not to have actually spoken with anyone in the Legislature. Section 1, subsection 1, paragraph (c) prohibits attempts to intimidate and influence the employee. The bill, arguably, applies to hypothetical interference in communication that has never occurred.

The definition of Legislators applies to staff and former Legislators and is too broad. It is not clear how a private conversation with a former Legislator would serve the public interest.

Assembly Bill 390 greatly expands what actions by an agency are prohibited. Language in section 1, subsection 1, paragraph (c) and section 1, subsection 2, paragraph (c) goes well beyond traditional whistleblower protections and combined with the broad definition of protected employee behavior threatens to render unmanageable State agencies and our higher education institutions.

The bill applies to any employee and does not indicate who determines what testimony before the Legislature was false. It is vague in defining the link between exposing false testimony and the adverse actions taken by the agency. If employees believe disciplinary action is imminent, they may simply send an email to a former Legislator and assert corruption to stop discipline or create a defense to such proceedings.

The whistleblower expansions raise a number of technical problems. It is not clear that employees seeking protection must prove the link between the false testimony and the discipline directed at them. Because A.B. 390 is designed to cover intimidation, threats and influence of employees directly or indirectly, it is not clear that the employer could not be in violation even if decision makers are not aware of employees' conversations with Legislators.

The bill's broad prohibitions seem to be at odds with one another. Should an employer find an employee is planning to communicate with the Legislature, A.B. 390 suggests the employer should withhold promotions and raises lest they be thought to be seeking influence on the employee. Traditional whistleblower guidelines would view this as retaliation.

The language is so broad it would be difficult, time-consuming and expensive for campus administrators to respond to claims from employees engaging with someone not actively engaging in legislation but asserting that false information was presented.

We are not opposed to provisions protecting those who would seek to expose false information, but language in A.B. 390 risks making the legislation difficult to manage.

JOE SUNBURY (Chief Internal Auditor, Nevada System of Higher Education):

The Internal Audit Department of NSHE functions as an independent and objective assurance and consulting activity conducting ongoing evaluations to improve effectiveness across all eight institutions and the system Administration Office. We cover risk management, control and governance processes. To maintain independence and maximize public accountability, I report to the Audit and Compliance Committee of the Board of Regents. This reporting structure allows a capacity for independent assessment, consulting and investigative activities without bias.

We provide analysis, appraisals and recommendations to a given function under review made possible through the authority for full access to NSHE records, properties and personnel. Over the past two years, we have averaged 16 completed yearly audits across eight institutions and the Administrative Office. These reports are publicly reviewed during quarterly Audit Committee meetings and are presented with recommendations and the institutions' action plans already embedded into the report text.

The audits come from our annual audit plan which is more from a robust risk assessment process. This process is collaborative in nature as we solicit input and ideas from a variety of sources, including the campuses for consideration as we weigh items against our various risk factors. This collaborative risk-based approach allows internal audit to focus on areas important to our key stakeholders and ensures our work will remain relevant.

The types of audits performed can vary. For example, at a recent Audit Committee meeting we presented deliverables ranging from cloud-computing management to purchasing card usage and travel, all different areas with slightly different tones, but the process was the same, to recommend improvements in business processes and strengthen the control environment. Based on our unique position within the system, these recommendations can be shared as a management tool for all institutions, not only the institution under audit.

The Nevada System of Higher Education employs an external audit firm which performs NSHE's financial statement audit and an audit of grants and contracts. The audited financial statements are incorporated into the State's financial reports.

RICK TRACHOK (Chair, Board of Regents, Nevada System of Higher Education):

The starting point of any discussion on changes to higher education governance must begin and end with how it will impact students and students' success. I know it is the way the Legislature approaches these discussions. It is the starting point for the Board of Regents as well. While many states define the terms of higher education governance through statutes, 24 states including Nevada use constitutional provisions to govern universities and colleges. These 24 states use constitutional provisions to establish constitutional autonomy of public colleges and universities to limit governmental interference in institutional operations. The unifying principle for Nevada and the other states has been ensuring education's independence from the political passions of the moment. So far, these constitutional provisions have served our students, our colleges and our universities well.

The 24 states where governance of universities is enshrined in their constitutions are varied. They include progressive and conservative states: Alabama, Alaska, Arizona, California, Florida, Georgia, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, South Dakota, Oklahoma, Virginia and Wyoming.

Many of the listed states are recognized as leaders in higher education. They are known for best practices. The constitutional structure does not prevent their success and might contribute to it. For example, the California Constitution specifically provides for the governance of the University of California system which is considered the premier public university system in the Country.

Nevada's constitutional provision for governance of higher education is modeled after California's constitutional provision. Florida's Constitution was amended in 2002 to include governance of higher education and the creation of a board of governors. Why would we, in Nevada, go through the trouble of going a different direction? How is Nevada's constitutional provision impeding student success? How would removing the constitutional protection of higher education increase research funding or student graduation rates or continue to enable students to transfer credits and grades throughout all of our institutions?

The essential challenge in public policy for higher education is to ensure that colleges and universities serve the public interest while providing institutions with sufficient autonomy to control their curriculum. There are many metrics

that can be used to determine if the public interest is being served: research and development, workforce training, graduation rates, underserved population enrollment and graduation and articulation between institutions to name a few.

Despite the significant reduction in funding, Nevada's colleges and universities are graduating more students and are allowing more transfers from one institution to another than ever before. We have our challenges within the Board of Regents in NSHE. We would submit that the system is far from broken. We as a system are addressing our challenges head-on in partnership with our colleagues in the Legislature.

Over the past three years, we have worked to fulfill the requirements of S.B. No. 391 of the 77th Session which required NSHE to change the governance of our community colleges. We have a Community College Committee of the Board of Regents which provides oversight of the system's community colleges.

Each of the four community colleges have an Institutional Advisory Council (IAC) comprised of business leaders, industry leaders, educators and concerned citizens who provide direct feedback to the college president and the Board of Regents. Institutional Advisory Council Chairs meet with the Chair of the Board of Regents two times a year. They discuss matters concerning their colleges. Every four months, one of the four Chairs of the IACs makes a presentation to the full Board of Regents. We are recruiting a Vice Chancellor to oversee community colleges.

Over the last three years, we have focused on the Carnegie Initiative to increase research expenditures, taking our two universities to the top 100 research universities in the United States. Through a published set of metrics, we now measure each institution's president's performance. The metrics include: graduation rates, underserved population enrollment and graduation rates, administrative efficiency and space utilization among others.

Many of my colleagues and I have reached out to Legislators. We have listened to you and your leadership in both parties and sought to address your concerns. I know that my colleagues will continue in the spirit of collaboration after my term as Chair ends in July.

Along with 22 other states, Nevada has integrated boards governing and coordinating budgets for several colleges and universities within a single system. Nine of these states including Nevada govern community colleges, state colleges and research universities as a single integrated system. This is an appropriate construction for a state of our size and level of state funding.

Four states have elected governing boards, including Michigan, Nevada, Colorado and Nebraska. Nevada voters have rejected taking away their right to vote for members of the Board of Regents when the issue was on the ballot.

We in NSHE have made significant strides in higher education in Nevada despite the reductions in state funding. Our community college students can now jointly enroll in a state college or a university, ensuring that the courses they take at the community college level will count toward their bachelor's degree. Next week, we will witness the results of our integrated system. Graduates at Great Basin College, Western Nevada College and CSN will walk across the stage and receive both their associate's degree and bachelor's degree. Our enrollments have increased, and we are graduating and completing an ever-higher percentage of students. We as a Board are carrying out our constitutional directive to the best of our ability in partnership with the Legislature.

CEDRIC CREAR (Regent, Board of Regents, Nevada System of Higher Education): Neither A.B. 390 nor A.J.R. 5 help our system or our students. As a member of the Board of Regents for 11 years, I have seen a lot. I am still trying to understand what these bills do for our students, which is always my litmus test for supporting or not supporting a proposal.

I understand there is a strained relationship between the Board of Regents and the Legislature for a variety of reasons. There is work to be done to improve the relationship. We need to work with you during the Interim to increase communication and to work collaboratively. Rather than reforming the system, we need to increase the number of graduates, support our faculty and our students. As elective bodies, we have more in common than we have in conflict.

SAM LIEBERMAN (Regent, Board of Regents, Nevada System of Higher Education): We have a shared obligation and agenda to educate, graduate and keep our students, faculty, staff and alumni engaged in Nevada for generations to come. We must do this together. I have been in the system in one way or another for

almost 37 years. I have seen times when NSHE thrived and when NSHE experienced setbacks.

Assembly Bill 390 would separate us. Our system has grown and has many moving parts. We must have the ability to run these institutions with your support as an independent entity. We cannot function effectively if we depend on the Legislature which only meets every two years. Our students, faculty and staff need to be governed effectively. I oppose A.B. 390 and A.J.R. 5.

SENATOR GANSERT:

The Nevada System of Higher Education has experienced budget cuts. Can you discuss the efforts made to adjust and ensure student needs were met?

MR. TRACHOK:

State funding for higher education was reduced by 33 percent since 2011. During this period of time, enrollments increased by almost 28 percent. The graduation rates and completion rates have increased by an even-larger percentage across the system. When I became chair two years ago, one of the first initiatives I proposed was to examine methods for improving efficiency in the NSHE office and at each of our institutions. We shifted funds from administration to the classrooms, labs and student counseling. As a result, we were able to save approximately 10 percent in the NSHE office. The funds were returned to the institutions. The institutions saved between 5 percent and 12 percent of administrative costs. For example, the police services at Truckee Meadows Community College and at the University of Nevada, Reno (UNR), were consolidated. The savings were \$570,000 a year. The funds are used to hire professors at Truckee Meadows Community College.

CHET BURTON (President, Western Nevada College):

We oppose A.B. 390 and are concerned about the formation of a SAGE Commission. The budget at Western Nevada College has been reduced by 42 percent since 2008, the highest in the State. Our associate degrees have increased by 50 percent. Certificate programs which lead directly to workforce development have increased by 100 percent. We have to earn back 20 percent of our budget through a performance measurement. Higher education is the only body required to earn back part of the budget. Overhead spending is at the lowest level in the history of the institution.

Though we are operating efficiently, we are concerned about a SAGE Commission study. We are a small institution and have few resources. We provide reports to the Board of Regents, our Institutional Advisory Council and the internal administrative audit group. We have one staff member in the budget office and adding another Commission requiring a report would be an undue burden.

We are continually improving our program. In the next two weeks, 96 students will graduate from high school and earn their associate degrees on the same day though our Jump Start College program.

We ask that we be allowed to do our job without requiring the extra burden of reporting to a SAGE Commission.

KYLE DALPE (Interim Dean, Technical Sciences, Truckee Meadows Community College):

We oppose A.B. 390. We are also concerned about the SAGE Commission. The Commission's efforts would be duplicative. The Board of Regents and institutional presidents are in the best position to quickly identify areas that could be modified for savings and to implement changes.

Truckee Meadows Community College (TMCC) has experienced a 33 percent reduction in state revenue from 2008 through 2016. Our priority is our students. In 2013, a new funding formula was implemented in which 20 percent of our funding is held back for performance. We do not receive a bonus for performance indicators.

In spring of 2016, I served as acting president of TMCC. During this time the Board of Regents directed an initiative for each institution to identify efficiencies that would result in savings. I worked with the college community to identify nearly \$800,000 in savings and efficiencies that were returned to the classrooms. We combined our police department with UNR and saved more than \$500,000 without reducing the level of service.

We have increased our degree and certificate output while reallocating funds to support academics and student completion.

KENT ERVIN (Nevada Faculty Alliance):

The Nevada Faculty Alliance (NFA) was neutral to A.B. 390 and A.J.R. 5 during hearings in the Assembly. We recognized the good intent of the sponsors and were uncertain about proposed amendments. As we have learned more and heard from our association's members, we are now opposed to the bills.

The independence of public universities and colleges from direct political influence is important. As an affiliate of the American Association of University Professors, we work to ensure academic freedom for faculty members and shared governance by faculty. To be effective as educators, professors must be able to discuss controversial topics without fear of political reprisals or repercussions. Having an independent multimember Board of Regents responsible to the people through elections is important for insulating the faculty of universities and colleges from political meddling from either the Legislative or Executive Branches of government.

While the Nevada Faculty Alliance sympathizes and shares frustration regarding the behavior and policies of the NSHE administration at times, ultimately, the constitutional status of the Board of Regents helps protect faculty from inappropriate political influence.

The Legislature has full power of appropriation of funds and power to regulate State agencies and employees. Elimination of the authority, duties and election of the Board of Regents from the Constitution would allow a future Legislature to create a structure where the Legislature or the Governor could remove Regents for political reasons. They could directly fire the chancellor or institutional presidents. Two bills in this Session, S.B. 80 and S.B. 502, would have converted the Public Employees' Benefits Program Board into an advisory board directly supervised by the Department of Administration. A future Legislature might do the same with the Board of Regents if the Board does not have constitutional status.

SENATE BILL 80: Makes various changes relating to the Public Employees' Benefits Program and the Deferred Compensation Program. (BDR 18-243)

SENATE BILL 502 (1st Reprint): Makes various changes relating to the Public Employees' Benefits Program and the Public Employees' Deferred Compensation Program. (BDR 18-979)

A referendum on A.J.R. 5 will be seen as removing the constitutional right of the voters to elect the Board of Regents. The other issues of legislative control or reform can be addressed without waiting five years for a constitutional amendment. The effort of a referendum would be better spent on other concerns and not legislative oversight of higher education. For these reasons, the Nevada Faculty Alliance opposes A.J.R. 5. The people of Nevada and the long-term future of higher education in Nevada would not be well-served by the amendment.

We oppose A.B. 390. SAGE Commissions have had a high effort-to-benefit ratio. Faulty compensation studies have been used. They have compared private and public employees compensation in disparate functions. We have disagreed with recommendations for reducing health and retirement benefits for public employees.

Any organization can be analyzed from a business-oriented approach in certain operations, but public education should not be run solely like a business without regard for its role of benefiting the common good. Recent reporting of scandals and mistreatment of students in for-profit colleges should give us pause.

Instead of forming another SAGE Commission, NFA supports Interim studies such as the study proposed in A.B. 202 concerning the cost and affordability of higher education. Assembly Bill 446 proposes to evaluate higher education programs.

ASSEMBLY BILL 202 (1st Reprint): Requires an interim study concerning the cost and affordability of higher education in this State. (BDR S-722)

ASSEMBLY BILL 446: Creates the Committee to Evaluate Higher Education Programs. (BDR S-1030)

In principle, we support strong whistleblower provisions; however, section 1 of A.B. 390 is narrow in extending protection for blowing the whistle on State officials who lie to the Legislature. It is overly broad in its definitions and applications. The NFA believes faculty has the right as citizens to contact Legislators on their own behalf on any issue at any time as long as they do not misrepresent themselves as speaking for the university or college. Under section 1, subsection 2 of A.B. 390, all faculty would qualify as employees who

may seek to communicate with the Legislature to disclose false information. Faculty may do that now or in the future.

We suggest language in section 2 be reduced to "it is unlawful for a state agency to influence or attempt to influence a state officer or employee in an attempt to affect the behavior of another state officer or employee." Since influencing one officer to simply affect the behavior of another employee is a regular function in any organization and because many faculty fulfill supervisory roles, the language in A.B. 390 is overly broad and unworkable.

Nevada Revised Statutes 281.631 properly restricts the scope to interference with the whistleblowing activities and not any behavior.

Section 2, subsection 1 paragraph (f) of A.B. 390 defines lying as "a false statement or misrepresentation of facts to the Legislature or a Legislator." Because there are no qualifiers, we are concerned this includes any inadvertent or unknowing misstatement of facts which can happen despite being careful. The definition of Legislator to include former Legislators or former employees of former Legislators means any State employee who makes an inadvertent statement to any of these people may be in violation under the whistleblower statute.

SENATOR WOODHOUSE:

As chair of the Interim Study Committee concerning community colleges from S.B. No. 391 of the 77th Session, I am encouraged by the cooperation and progress made by the Board of Regents and the institutions of higher education as a result of the legislation.

Assembly Bill 390 and A.J.R. 5 are the next steps in the process of providing better opportunities for students. We can accomplish our goals by working together.

ASSEMBLYMAN ANDERSON:

No other State agencies testified today in opposition to A.B. 390. Neither Senator Woodhouse nor I have been contacted by any State agency with objections. Every other State agency has been reviewed by a SAGE Commission. We are not asking NSHE to submit to anything more than other agencies have done.

I did not hear testimony describing ways A.J.R. 5 would adversely affect students. I did hear a fear of change. We are asking that the Board of Regents and the System of Higher Education be subject to the law and outside accountability. The Legislature looks for accountability from every other governing board and every other State agency. Assembly Joint Resolution 5 allows for the people's branch of government to interject when it is necessary as we do for every other State agency.

CHAIR CANNIZZARO:

We will close the hearing on A.B. 390 and A.J.R. 5 and open the work session on S.B. 507.

SENATE BILL 507: Revises the interim committee structure of the Legislature.
(BDR 17-1126)

MICHAEL STEWART (Policy Analyst):

Senate Bill 507 repeals several Statutory Committees on which Legislators serve throughout the biennium and establishes Joint Interim Standing Committees that parallel Standing Committees established by the Legislature during its regular Session. I have submitted the work session document ([Exhibit C](#)). Two technical amendments have been proposed and are outlined in the work session document.

SENATOR SEGERBLOM MOVED TO AMEND AND DO PASS AS AMENDED S.B. 507.

SENATOR ATKINSON SECONDED THE MOTION.

SENATOR SETTELMAYER:

I did not support restructuring Interim Committees in past Sessions and will vote no today. Senate Bill 507 may result in more bill draft requests being submitted and may lead to a full-time Legislature.

SENATOR GANSERT:

I will not support S.B. 507. It may lead to a full-time Legislature. Our Interim Committee system works well.

THE MOTION PASSED. (SENATORS GANSERT AND SETTELMAYER
VOTED NO.)

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CHAIR CANNIZZARO:

We will open the work session on Senate Joint Resolution (S.J.R.) 11.

SENATE JOINT RESOLUTION 11: Proposes to amend the Nevada Constitution to revise provisions relating to the State Legislature. (BDR C-1082)

MR. STEWART:

Senate Joint Resolution 11 proposes to amend the Nevada Constitution to provide for annual regular Legislative Sessions, limited in odd-numbered years to not more than 90 legislative days within 120 calendar days and in even-numbered years to not more than 30 legislative days within 45 calendar days. After further review of the measure, it was noted that the proposed March time frame could potentially overlap with candidate-filing periods. Senator Woodhouse proposed to amend S.J.R. 11 to specify that even-numbered year Sessions would commence on the first Monday in February. I have submitted the work session document with the proposed amendment ([Exhibit D](#)).

SENATOR SEGERBLOM MOVED TO AMEND AND DO PASS AS AMENDED S.J.R. 11.

SENATOR ATKINSON SECONDED THE MOTION.

SENATOR GANSERT:

Based on the information provided in the earlier bill, I will not support S.J.R. 11.

SENATOR SETTELMAYER:

I will not support S.J.R. 11.

THE MOTION PASSED. (SENATORS GANSERT AND SETTELMAYER
VOTED NO.)

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CHAIR CANNIZZARO:

We will open the work session on A.B. 350.

ASSEMBLY BILL 350 (1st Reprint): Revises provisions relating to state employment. (BDR 23-932)

MR. STEWART:

Assembly Bill 350 requires employers within the Executive Department of State Government to provide an in-person orientation to a new employee during the employee's regular work hours within 30 days after the employee's date of hire or within a reasonable time thereafter. Additionally, the bill requires an employing State agency to allow an employee organization that has at least 100 paying members to give a presentation of at least 30 minutes during the orientation. Finally, the bill requires an employing State agency to provide such an employee organization with certain information concerning a newly hired employee and to allow such an employee organization to meet with an employee who is unable to attend the employee orientation within the required time. I have submitted the work session document ([Exhibit E](#)).

SENATOR SEGERBLOM MOVED TO AMEND AND DO PASS AS AMENDED A.B. 350.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS GANSERT AND SETTELMAYER VOTED NO.)

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CHAIR CANNIZZARO:

We will open the work session on A.B. 478.

ASSEMBLY BILL 478 (1st Reprint): Revises provisions relating to elections. (BDR 24-463)

MR. STEWART:

Assembly Bill 478 was submitted by the Office of the Secretary of State and revises provisions relating to election administration. I have submitted the work session document ([Exhibit F](#)).

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SENATOR SETTELMAYER MOVED TO DO PASS A.B. 478.

SENATOR GANSERT SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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VICE CHAIR SEGERBLOM:

We will open the hearing on Assembly Joint Resolution 11.

ASSEMBLY JOINT RESOLUTION 11: Urges Congress to ensure that the Intermountain West Corridor does not bypass Mineral County. (BDR R-561)

ASSEMBLYMAN IRA HANSEN (Assembly District No. 32):

Assembly Joint Resolution 11 urges the United States Congress to ensure the Intermountain West Corridor does not bypass Mineral County. Interstate 11 (I-11) would be a new highway system between Mexico and Canada. This is important because Mineral County is the most economically depressed county in Nevada, but it is on the verge of a major recovery. Mineral County holds a lease on the 147,000-acre Hawthorne Army Depot. Industries considering moving to the area are hesitant because construction of the interstate highway in the County is uncertain.

SENATOR SEGERBLOM:

What other routes have been considered?

ASSEMBLYMAN HANSEN:

Eastern Nevada was considered but has been rejected. A section was considered from Tonopah to Gabbs through Fallon but was excluded because of the expansion of the bombing range on the Fallon Naval Air Station.

We hope I-11 will run through Hawthorne and the Depot. This would give confidence to companies considering locating and investing in Mineral County. As the Tahoe Reno Industrial Center has boosted Storey County's economy, it could also happen in Mineral County.

MARK NIXON (Chairman, Mineral County Regional Planning Commission):
Nevada has completed a freight transportation plan and identified assets throughout the State that would complement the I-11 strategies. Mineral County was not invited to participate in developing the plan. The County has many assets that fall into the transportation plan and its strategies.

Major corporations have expressed interest in area. There are possibilities for the technology sector and parts of the base available under the U.S. Army's Armament Retooling and Manufacturing Support program. I have submitted a presentation ([Exhibit G](#)).

SENATOR SEGERBLOM:
How many feet will the Walker River rise this year?

MR. NIXON:
Overall, it should rise about 15 feet.

DAVID ELLIS (Mineral County Regional Planning Commission):
I work at the Depot for the Engineering Department. Page 13 of [Exhibit G](#) is a map of a potential technology and industrial center covering almost 18,000 acres of open government land. Three companies have expressed interest in developing the land. We have land that would accommodate solar energy projects. There are many possibilities.

SENATOR SEGERBLOM:
Are there bombs in all of the bunkers at the Depot?

MR. ELLIS:
Not all of them. The areas being considered for development are on open land.

SENATOR SEGERBLOM:
When and why was the Hawthorne Army Depot built?

MR. ELLIS:
The Depot was commissioned in 1928 because of a major explosion on the East Coast. The federal government was looking for a safe place to store munitions for transport to ports on the West Coast.

MR. NIXON:

There are 120 miles of railroad interconnecting tens of thousands of square feet of empty buildings. There are opportunities for inventory management, 24-hour security and 24-hour fire protection. This is a major asset for Mineral County and Nevada.

SENATOR SEGERBLOM:

Do you have permission to sell the land from the federal government?

MR. NIXON:

The land is not for sale. It is available for lease under the Armament Retooling and Manufacturing Support program. Administrators of the program have assured us that the leases can be for more than 25 years.

The structure of the railroad running from Hawthorne to Tonopah is still in place and dedicated. We have a list of every owner of the dedicated railbed that parallels Highway 95. We have worked with Churchill County to identify routes for I-11 through their County.

SENATOR SEGERBLOM:

Is Walker Lake a national park? Are there plans to restock the Lake with fish?

MR. NIXON:

Walker Lake is a State water body surrounded by federal land.

SENATOR GANSERT:

It is a desert terminus lake. Is that correct?

MR. NIXON:

Yes. The water quality would not support fish in the Lake.

SENATOR SETTELMAYER:

The rise in lake level and increased water flow may improve chances for returning fish to Walker Lake.

MR. NIXON:

The Lake has receded so far, it may take more than one season.

ASSEMBLYMAN HANSEN:

The purchase of several ranches along the East Walker River will help divert more water into the Lake. If I-11 comes through and the industrial park takes off, Hawthorne's economy will benefit.

SHELLEY HARTMANN:

I am from Mineral County. The map on page 11 of [Exhibit G](#) is an illustration of the proposed Interstate 11 route. We have community-wide support for the route.

We now have rail access to Hawthorne as a result of an agreement with the Walker River Paiute Tribe. Once we have I-11, we will have the gold standard for economic development. The 16,800-acre certified economic development site has been carefully planned. A rail logistics company, Top Rail Solutions, helped secure rail access. It will be storing rail cars in Hawthorne. Transports from Hawthorne can reach every West Coast market in eight hours. Companies can manufacture products on-site in Hawthorne and transport them in a timely and efficient manner.

Mineral County's unemployment is significantly higher than the officially reported figures because the numbers only reflect those receiving benefits. We are excited about the economic opportunities I-11 can bring.

DAVE LARSEN:

I am the general manager of SOC Hawthorne LLC, the contractor for the Depot. We employ 625 people and the number will grow. Our employees live throughout Mineral County. Generations of families have been employed at the Depot.

The Top Rail Solutions agreement will open the facility to interest from many companies. Interstate 11 will bring investment to the County.

SENATOR SEGERBLOM:

Do we have any indication from the federal government about the final designation of a route for I-11? Is there a timeline?

MS. HARTMANN:

The Nevada Department of Transportation (NDOT) will make that determination. We are hoping, with encouragement from the Legislature and the passage of

A.J.R. 11, NDOT will make a decision soon so we can plan. We need to be included in planning.

MAC POTTER (Vice President of Operations, Nevada Casino Holdings; El Capitan Lodge Casino):

I represent the owners of the El Capitan Lodge and Casino in Hawthorne. We have joined with other businesses in Hawthorne, including Safeway, Golden Gate Petroleum, Young Electric Sign Company and SOC Hawthorne among others. As one of the largest-nongovernmental property owners, employers, taxpayers and contributors to the local economy, we are also stakeholders who are keenly interested in the future and support A.J.R. 11.

While construction of this part of the interstate highway is likely many years in the future, planning for the route it will take is obviously well underway. It is this much more immediate fact that strongly colors the current perception of the area's future economically and otherwise. While that future should look bright, just now the lack of certainty here makes it much less so.

Early in the planning process, NDOT made the commitment to continue collaboration between current and new partners at the federal, State, regional and local levels as well as in the nongovernmental and private sectors. The Department warned that Arizona and Nevada could lose significant opportunities to grow and diversify their economies if certain actions were not carried out. The I-11 and Intermountain West Corridor is intended to be a multimodal corridor, pairing together highway and freight or passenger rail and other major infrastructure components, including power and energy; natural resources such as oil, gas and water; and telecommunications. First among the goals is to connect and enhance the economic vitality of communities connected and served by the Corridor. Mineral County is committed to being included in the process.

Obviously, the cost of the new highway, including land acquisition, is a huge if not the main consideration in planning for the route. Here, however, the appearance of cost savings can be illusory. Consider how much greater the real cost will be to Mineral County and Nevada for the County's economic demise if, in the attempt to achieve one-time cost savings, that route bypasses and extinguishes Hawthorne in the process, resulting in a lifetime of loss. Simply put, the cost of a new highway pales by comparison to the cost of losing a county. Taken in this broader view, it is far better to recognize

Mineral County and Hawthorne's well-being, value and potential increased economic contribution to the State by ensuring that I-11 is planned for close proximity to the town.

I represent our company's interest only. I occupy no official position representing Mineral County's interests. While I often speak to the issue, it is only with the knowledge and concurrence of the Mineral County Board of Commissioners and Mineral County Planning Commission that I represent the common consensus on the matter. All of us here in Mineral County and Hawthorne—governing bodies, business and property owners, and residents alike—have a stake in the outcome of this critical process. There is a great deal of opportunity to enhance economic development, community stability and well-being here that must be fully explored, well understood and not be discounted or overlooked. With its existing highways, railroads and an abundance of developable commercial land for industrial parks and intermodal freight centers, the choice of I-11 in this part of Nevada is clear. It is Mineral County and Hawthorne.

Underscoring the importance of getting to a final choice of the route now to ensure the perception of the community's future, we have formally requested NDOT's commitment as early as possible to the plan that ensures that the route serves Mineral Count and Hawthorne and Nevada's best interests. We support A.J.R. 11.

CYNTHIA OCEGUERA (Environmental Director, Walker River Paiute Tribe):

I represent the Walker Lake Tribal Elders. The tribal economic conditions have not improved in a long time, and we support A.J.R. 11.

SENATOR SETTELMAYER:

Has Senator Don Gustavson, Senate District No. 14, been given the opportunity to submit his name as a cosponsor of A.J.R. 11?

ASSEMBLYMAN HANSEN:

We will speak with him.

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VICE CHAIR SEGERBLOM:
I will adjourn the meeting at 5:27 p.m.

RESPECTFULLY SUBMITTED:

Jan Brase,
Committee Secretary

APPROVED BY:

Senator Nicole J. Cannizzaro, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	6		Attendance Roster
S.B. 507	C	1	Michael Stewart	Work Session Document
S.J.R. 11	D	1	Michael Stewart	Work Session Document
A.B. 350	E	1	Michael Stewart	Work Session Document
A.B. 478	F	1	Michael Stewart	Work Session Document
A.J.R. 11	G	15	Mark Nixon	Presentation I-11 Corridor