

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

**Seventy-ninth Session  
May 15, 2017**

The Senate Committee on Legislative Operations and Elections was called to order by Vice Chair Tick Segerblom at 3:50 p.m. on Monday, May 15, 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 Michael C. Sprinkle, Assembly District No. 30  
Assemblyman Tyrone Thompson, Assembly District No. 17

**STAFF MEMBERS PRESENT:**

Michael Stewart, Policy Analyst  
Jan Brase, Committee Secretary

**OTHERS PRESENT:**

Joe Reynolds, Chair, Public Utilities Commission of Nevada  
Brett Kandt, Chief Deputy Attorney General, Office of the Attorney General  
Yvonne Nevarez-Goodson, Executive Director, Commission on Ethics  
Shawn Reid, Nevada Gaming Control Board  
Kent Ervin, Nevada Faculty Alliance  
Shelley Hendren, Administrator, Rehabilitation Division, Department of  
Employment, Training and Rehabilitation

Senate Committee on Legislative Operations and Elections  
May 15, 2017  
Page 2

David Sorensen, Nevada Governor's Council on Developmental Disabilities  
Sherry Manning, Executive Director, Nevada Governor's Council on  
Developmental Disabilities  
Cara Paoli, Deputy Administrator, Division of Aging and Disability Services,  
Department of Health and Human Services  
Eric Spratley, Washoe County Sheriff's Office  
Kelle Seely, Washoe County Sheriff's Office  
Wendy Stolyarov, Libertarian Party of Nevada  
Michael Sean Giurlani, Nevada State Law Enforcement Officers Association  
Richard P. McCann, Executive Director, Nevada Association of Public Safety  
Officers  
Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association  
Tom Dunn, Professional Fire Fighters of Nevada  
Ryan Beaman, Clark County Fire Fighters Local 1908  
Beth Avery, National Employment Law Project  
Delen Goldberg, City of North Las Vegas  
Monique Normand, Progressive Leadership Alliance of Nevada  
Cassandra Little  
Kelly Crompton, City of Las Vegas  
Alanna Bondy, American Civil Liberties Union of Nevada  
Alexandria Davis, Progressive Leadership Alliance of Nevada  
Anthony Gilyard, Foundation for an Independent Tomorrow  
Jason Makris  
Otis Lang  
Jodi Tyson, Three Square of Southern Nevada  
Alycia Seabolt Barnwell  
John Piro, Office of the Public Defender, Clark County  
Trey Delap, Foundation for Recovery  
David Cherry, City of Henderson  
Keith Lee, Nevada Judges of Limited Jurisdiction  
Kenadie Cobbin Richardson, Workforce Connections  
Don Soderberg, Director, Department of Employment, Training and  
Rehabilitation

VICE CHAIR SEGERBLOM:

We will open the hearing on Senate Concurrent Resolution (S.C.R.) 6.

**SENATE CONCURRENT RESOLUTION 6**: Directs the Legislative Commission to conduct an interim study concerning salaries for certain positions in the unclassified and nonclassified service of the State. (BDR R-998)

SENATOR JOYCE WOODHOUSE (Senatorial District No. 5):

Senate Concurrent Resolution 6 creates a long overdue Interim study concerning salaries for certain positions in the unclassified and nonclassified service of the State. The bill addresses the ongoing concern of whether the salaries of these State employees are competitive with both the private sector and local governments and whether they appropriately match the employees' positions. The delivery of essential government services to the people of this State is dependent on the men and women employed in State government. During the Great Recession, we counted on these State employees at all levels and required them to take furloughs and reductions in pay. They lost merit and longevity pay and experienced other reductions in benefits.

In general, we know that nonclassified and unclassified State employees receive certain benefits and salaries on less favorable terms than those employed in similar positions at the local level and in the private sector. We often make a significant investment in the recruitment and training of State employees only to see them depart State service in favor of higher-paying jobs elsewhere. The payment of adequate salaries and benefits for those in unclassified and nonclassified positions is necessary to attract, recruit and retain an effective workforce.

The Division of Human Resource Management of the Department of Administration conducts salary surveys of certain jobs comparable to those performed by classified State employees. The Division surveys the State and the region. Based on this analysis, the Division makes recommendations to the Legislature concerning appropriate salaries for our State classified employees. The surveys account for changes in the cost of living, turnover rates and challenges in recruitment. Unfortunately, nothing comparable exists for unclassified positions in State government. This would be a focus of S.C.R. 6.

Senate Concurrent Resolution 6 directs the Legislative Commission to appoint a Committee of six Legislators to conduct an Interim study concerning appropriate salaries for certain positions in the unclassified and nonclassified service of the State. The Administrator of the Division of Human Resource Management would serve as a nonvoting member. As part of the Interim study, the Committee shall

include at a minimum a review of any position within the Judicial Department, the Commission on Ethics, the Nevada Gaming Control Board, the Public Utilities Commission of Nevada and any other department, commission or agency as determined by the Committee.

The Committee shall review the salary paid to the State officer or employee in each position selected for review by the Committee and provide a market salary analysis to be performed in a manner determined by the Committee for each selected position. Finally, the Committee may also consider whether any position designated within the classified, unclassified or nonclassified service of the State should be predesignated to a more appropriate classification.

All our State employees provide valuable and much-needed public services to our State. This Interim study is a step in the right direction to ensure these employees are fairly compensated for their important work.

VICE CHAIR SEGERBLOM:

State employees have also experienced reductions in their retirement benefits that were not required of local government employees.

JOE REYNOLDS (Chair, Public Utilities Commission of Nevada):

We support S.C.R. 6. There are billions of dollars of investment in infrastructure under the jurisdiction of the Public Utilities Commission of Nevada. There is a strong nexus between what we do at the Commission, building our New Nevada and meeting the State's economic development issues.

Dockets involving Tesla, Apple, Google and major gaming properties are under the jurisdiction of the Commission. We are the smallest per capita public utilities commission in the Country but have the largest energy issues. The eyes of the Nation are on Nevada.

We employ lawyers, economists, certified public accountants and engineers and need to be able to offer competitive wages.

BRENT KANDT (Chief Deputy Attorney General, Office of the Attorney General):

We support S.C.R. 6. The Office of the Attorney General is the largest law firm in the State. We experience turnover, but too often the turnover is attributed to losing attorneys to the private sector or other government agencies.

A study as proposed by S.C.R. 6 would be helpful in improving recruitment and retention in our Office.

YVONNE NEVAREZ-GOODSON (Executive Director, Commission on Ethics):

We support S.C.R. 6. For several Sessions, the Ethics Commission has attempted to address salary parity for the Commission's staff. We welcome a study on all unclassified positions in the State, but continue to be concerned about disparities between the Ethics Commission and our sister agencies, the Judicial Discipline Commission, the Nevada Gaming Control Board and the Public Utilities Commission in particular. Included in our support is a request for your continued review of Ethics Commission's salaries and determination of appropriate salary adjustments.

SHAWN REID (Nevada Gaming Control Board):

The Gaming Control Board employs approximately 400 people of which 320 are unclassified. If S.C.R. 6 is enacted, we would provide detailed information on those employees.

KENT ERVIN (Nevada Faculty Alliance):

We support conducting a salary survey and working toward salary equity. State employees have experienced furloughs and loss of longevity pay. They are valued for their public service. I have submitted a comparison of compensation for State employee groups in Nevada ([Exhibit C](#)).

We are neutral to S.C.R. 6. Section 1 includes any agency in the State. It is unclear if the resolution applies to the Nevada System of Higher Education (NSHE) employees. There has been some confusion this Session regarding professional employees at NSHE and whether they are unclassified or nonclassified. There are 2,600 classified employees and approximately 5,600 professional employees, including academic and administrative faculty. We also have a class of employees known as executives and administrators, including the Chancellor, institution presidents and possibly head coaches. There are fewer than 100 of these employees who might apply under S.C.R. 6, but we are unclear about the intent of the resolution.

CHAIR CANNIZZARO:

We will close the hearing on S.C.R. 6 and open Assembly Bill (A.B.) 192.

**ASSEMBLY BILL 192 (1st Reprint)**: Revises provisions governing the temporary limited appointment of persons with disabilities by state agencies. (BDR 23-525)

ASSEMBLYMAN MICHAEL C. SPRINKLE (Assembly District No. 30):

I have been working on the concepts in A.B. 192 for more than a year. I had contact with individuals in Washington, D.C., who were working through the U.S. Department of Labor to examine workforce development for people with disabilities and to allow them to have high-quality, productive lifestyles. They were researching the barriers and hindrances to finding work. A national task force was formed through an effort by the Council of State Governments and the National Conference of State Legislatures. I was chair of one of the four committees established within the task force. A message we heard consistently was that the states needed to set an example in development and hiring of individuals with disabilities.

In Nevada, Governor Brian Sandoval has formed a task force on integrating employment for these individuals. Assembly Bill 192 works to utilize and reinforce an existing plan in our State's hiring practices. The bill requires every Division within the State's agencies to have an employee with training and experience in working with people with disabilities and making accommodations for them.

SHELLEY HENDREN (Administrator, Rehabilitation Division, Department of Employment, Training and Rehabilitation):

*Nevada Revised Statutes* (NRS) 284.327 allows State agencies to make temporary, limited appointments of certified individuals with disabilities into jobs within State service for a period up to 700 hours. Counselors from the Vocational Rehabilitation program certify that these individuals possess the minimum job qualifications for these lists with or without reasonable accommodation for specific jobs or for a series or classification of jobs within State service. Counselors evaluate candidates through aptitude, educational, situational and community-based assessments and through observation of the level of performance of which the individuals are capable.

Vocational Rehabilitation program counselors present the certifications and candidates' applicant packets, including resumes, to the Department of Human Resource Management (DHRM). Representatives from DHRM then place these individuals on 700-hour unranked lists if they agree that the individuals meet the

minimum qualifications for these lists. A temporary, limited appointment of a certified person from a 700-hour list to a continuing position constitutes the individual's examination as required under NRS 284.215.

The 700-hour lists are unranked and available for review at all times by appointing authorities. Having individuals on these lists allows agencies to bypass the processes of ranking, examinations and even interviewing. Consideration of individuals with disabilities on 700-hour lists should occur before any open recruitment list is considered for those same positions. This is an additional benefit to individuals and agencies as it speeds up the hiring process.

State agencies are authorized and encouraged to review the 700-hour lists of candidates and consider those candidates for hire, but they are not required to do so. If, however, an individual from the 700-hour list is selected for hire, the 700 hours are utilized as an evaluative measure to assess the individual's ability to perform the essential functions of the job and for the agency to ensure the individual is a good fit. At any point up to the end of the 700-hour period, the agency may elect to permanently hire individuals if they have satisfactory performances. In that case, the hours in the temporary appointment, up to 700 hours, are applied to the individual's regular probationary period. Additionally, during the 700-hour period, agencies have the expertise and support of the State's Vocational Rehabilitation program staff who ensure the individuals' barriers to employment are mitigated or eliminated.

Agencies with high turnover rates and numerous vacancies can benefit from hiring 700-hour applicants. Vacancies often result in decreased production and poor morale, and appointments of 700-hour applicants may be made immediately after review of their credentials. National studies have shown that individuals with disabilities make excellent employees. They have high levels of performance, retention and attendance.

DAVID SORENSEN (Nevada Governor's Council on Developmental Disabilities):

I am a council member of the Nevada Governor's Council on Developmental Disabilities. I was a participant in the 700-hour program. I have overcome significant cognitive, physical and psychological barriers since birth. I applied for services at Vocational Rehabilitation after my job in the private sector was eliminated. I was worried that I would end up homeless as I once was. I maintained a positive attitude, and I showed initiative to find a part-time job

working for Washoe County as a cashier for the Bowers Mansion pool for the summer. I completed Vocational Rehabilitation clerical training and graduated with high marks. I displayed great skill in using Microsoft and Excel. With the support of Vocational Rehabilitation, I achieved my goal. I am now working for the State as an Administrative Assistant I (AA I) through the 700-hour program.

I have a very inspiring and positive demeanor and a can-do attitude. I was selected by Special Olympics Nevada to compete nationally in aquatics in the first-ever Special Olympics USA Games held in Ames, Iowa. I placed fourth and sixth in the Country.

I believe Vocational Rehabilitation is the best program for people with disabilities. Vocational Rehabilitation sent me to school, and I graduated with an Associate of Arts degree. With the help of vocational rehabilitation, I graduated with a 3.30 GPA. Without its help, I do not know where I would be. The skills and training provided from Vocational Rehabilitation allowed me to become employed by Intuit Inc. for over 15 years. In January 2016, I was laid off and my job was eliminated, but I was eligible to be rehired. In June 2016, my name was on the 700 list, and I was selected for an interview for an AA I. I was selected and was offered a position with the Nevada Women, Infants and Children program. On August 1, 2016, I accepted the position as an AA I, and for the past 9 months I have been employed permanently by the Division of Public and Behavioral Health. I was also one of several people named as a 2016 Success Story of the Year by the Vocational Rehabilitation Division.

In conclusion, as you can see from my experience, the 700-hour program works for people with disabilities. The 700-hour program gives an opportunity to positively change a person with a disability. The 700-hour program gives persons with disabilities the chance to show what they can do and the abilities they can provide to the division that hires them. It gives them skills that are necessary to succeed in today's society. People with disabilities have a hard time finding employment. That is why I am so grateful for the 700-hour program. I look forward to seeing what the future holds for this wonderful program.

SHERRY MANNING (Executive Director, Nevada Governor's Council on Developmental Disabilities):  
We support A.B. 192 which allows State agencies to become model employers of employees with disabilities.



CARA PAOLI (Deputy Administrator, Division of Aging and Disability Services, Department of Health and Human Services):

This bill is good government. It would be positive to see more people with disabilities gain employment. We support A.B. 192.

MS. HENDREN:

The 700-hour program helps pair agencies with skilled, qualified and dependable potential employees while increasing diversity within State agencies. State employment should reflect the diversity that exists in the community. National studies demonstrate that people with disabilities make excellent employees.

Walgreens conducted a study of the company's workforce and found individuals with disabilities had higher retention rates and were equal or better in performance, attendance and safety than their nondisabled peers.

The 700-hour program provides opportunities for individuals with disabilities for employment which adds to agencies' talent pool of individuals with distinct and marketable skills. Employees with disabilities bring unique experiences and understanding to the workplace that enhance products and services. Assembly Bill 192 supports government as a leader and model employer. Governor Sandoval's Strategic Planning Framework for 2016-2020 includes goals and objectives in support of this bill. For example, Objective 1.1.4 of the Framework reads, "Cultivate a diverse and inclusive workforce and ensure equal employment opportunities." Objective 5.1.3 reads, "The unemployment rate for persons with disabilities will be reduced by 50%" and 8.3.1 reads, "Support best practices to increase employment opportunities, foster innovation, and reduce barriers to employment for persons with disabilities."

CHAIR CANNIZZARO:

We will close the hearing on A.B. 192 and open the hearing on A.B. 301.

**ASSEMBLY BILL 301 (1st Reprint)**: Provides for the confidentiality of certain communications between parties during a peer support counseling session. (BDR 23-186)

ASSEMBLYMAN MICHAEL C. SPRINKLE (Assembly District No. 30):

Assembly Bill 301 provides confidentiality protection for public safety employees' communications during peer support counseling sessions. When public safety officers or employees experience a stressful situation, they often

turn to peers after the incident occurs. It is later that they begin to process the event. I have had this experience many times in my job and appreciate the advantages of A.B. 301.

ERIC SPRATLEY (Washoe County Sheriff's Office):

Law enforcement officers, fire personnel, paramedics and other first responders are exposed to a myriad of critical incidents. We do not know which call for assistance will have an adverse effect on a first responder. We do realize the calls involving children, major trauma or mass casualty events will have an impact on our personnel. We care deeply for our personnel and have invested significant time and resources in their success.

Maintaining the wellbeing of our personnel is our highest priority. Almost all the public safety agencies in the State have an official employee assistance program. Employees may seek out professional counseling services at no cost for any issue. In law enforcement, there is an unspoken stigma to requesting help for problems. There is an unrealistic, yet real, fear of a fitness for duty evaluation if an agency suspects an employee may be struggling with mental health issues.

Public safety agencies have established peer support groups comprised of personnel within the organization. In the Washoe County Sheriff's Office, deputy sheriffs and supervisors are trained and certified to assist a struggling employee and discuss their matters on a personal peer counselor level. Our peer support team has had success with our agency professionals, and there is a high level of trust and respect for the team.

The conflict, and what A.B. 301 proposes to address, is the fact that a supervisor of a law enforcement agency can order a subordinate to answer a question under NRS 289.020 relating to an investigation or face charges of insubordination which may result in discipline up to and including termination. For example, if I observe a deputy sheriff speaking to another officer in the parking lot and I have an issue with the deputy sheriff and suspect him of wrongdoing, I can order the officer to give me details of the conversation. Assembly Bill 301 would classify that conversation as a confidential peer support counseling session.

The bill does not seek to undermine law enforcement management rights especially during an investigation of officer misconduct or criminal behavior. We

do realize the benefit of allowing our personnel a form of support during challenging times. The bill and NRS 289 may conflict at some point in the future, but the matter would be best left to a court or arbiter to decide.

CHAIR CANNIZZARO:

*Nevada Revised Statutes* 281 applies to law enforcement officers. Is the intent of A.B. 301 to apply to any public employee or officer?

MR. SPRATLEY:

The bill is narrow in scope. It covers peace officers, sheriffs' deputies, corrections officers, probation officers, fire fighters, paramedics, emergency dispatchers or any other employee or volunteer reserve member of a law enforcement or public safety agency.

CHAIR CANNIZZARO:

Section 1, subsection 1 appears to apply to a broader groups of individuals than you have described.

MR. SPRATLEY:

Section 1, subsection 5 reads "As used in this section." Section 1, subsection 5, paragraph (c) lists the individuals I have outlined. That is the focus of section 1.

CHAIR CANNIZZARO:

Section 1, subsection 1 states that any communication made between parties during a peer support counseling session is confidential and later references instances when communications would not be confidential. I want to be clear about the circumstances when communication is confidential and the extent of the limitations.

MR. SPRATLEY:

Section 1, subsection 1 specifies a "peer support counseling session." Section 1, subsection 5, paragraph (d) defines a peer counseling session as "any counseling formally provided through a peer support program between a counselor and one or more law enforcement or public safety personnel." Those personnel are described in section 1, subsection 5, paragraph (c).

KELLE SEELY (Washoe County Sheriff's Office):

I am coordinator of Washoe County Sheriff's Office peer support group and critical incident stress management team. Nineteen states have adopted legislation similar to A.B. 301. On a daily basis, we see traumatic situations. A peer who has had similar experiences can help officers take the first step to getting healthy. The best tool we as public safety officers have is our brain. We need to be thinking clearly. I support A.B. 301.

WENDY STOLYAROV (Libertarian Party of Nevada):

We support A.B. 301. We believe a well-functioning society requires a well-functioning public safety force. Assembly Bill 301 is about people, and implementing the provisions of the bill will help dispel the warrior mentality and improve the lives of public safety employees and those they serve. By protecting the privacy of first responders in peer support sessions, first responders will be more likely to open up and receive needed treatment. Nevadans rely on first responders to be at their best in moments of crisis. This bill will help them serve those in need when called upon to do so. The bill will help first responders serve their communities better by protecting their mental and emotional health.

MICHAEL SEAN GIURLANI (Nevada State Law Enforcement Officers Association):

We support A.B. 301.

RICHARD P. MCCANN (Executive Director, Nevada Association of Public Safety Officers):

We support A.B. 301. I have worked with peer counselors around the State and am impressed by the work they do.

ROBERT ROSHAK (Executive Director, Nevada Sheriffs' and Chiefs' Association):

We support A.B. 301.

TOM DUNN (Professional Fire Fighters of Nevada):

We support A.B. 301. Over the past few years, the City of Reno Fire Department has experienced many traumatic incidents and some personnel dealt with difficult issues. Peer support counseling is essential.

RYAN BEAMAN (Clark County Fire Fighters Local 1908):

We support A.B. 301. We also experience traumatic events on a daily basis and appreciate peer support counseling.

Senate Committee on Legislative Operations and Elections  
May 15, 2017  
Page 13

CHAIR CANNIZZARO:

We will close the hearing on A.B. 301. We will open the work session with A.B. 272.

**ASSEMBLY BILL 272 (2nd Reprint)**: Revises provisions relating to elections.  
(BDR 24-851)

MICHAEL STEWART (Policy Analyst):

Assembly Bill 272 authorizes county and city clerks to establish polling places where any registered voter may vote in person on the day of a primary or general election. These sites must be published unless all sites accommodate any eligible voter. For any such polling place, the clerk shall prepare a roster of all eligible voters in the county or city, as applicable. I have submitted the work session document and amendments ([Exhibit D](#)).

SENATOR SEGERBLOM MOVED TO AMEND AND DO PASS AS AMENDED A.B. 272.

SENATOR ATKINSON SECONDED THE MOTION.

SENATOR GANSERT:

I am concerned about the lack of requirements on the number of required polling places and their distribution. I am also concerned about the amendment which specifies not having a polling place if there is an early polling location on Indian reservations. I will not support A.B. 272.

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

\* \* \* \* \*

CHAIR CANNIZZARO:

We open the work session on A.B. 392.

**ASSEMBLY BILL 392 (1st Reprint)**: Revises provisions concerning certain communications relating to elections. (BDR 24-85)

MR. STEWART:

Assembly Bill 392 revises provisions relating to communications published in support of or in opposition to a candidate in an election. If a communication includes the name and address or other official contact information of a governmental entity, the communication must disclose that it was not endorsed by and is not an official publication of the State or a political subdivision as applicable. I have submitted the work session document ([Exhibit E](#)).

SENATOR SEGERBLOM MOVED TO DO PASS A.B. 392.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

\* \* \* \* \*

CHAIR CANNIZZARO:

We will open the work session on Assembly Joint Resolution (A.J.R.) 7.

ASSEMBLY JOINT RESOLUTION 7: Expresses the opposition of the Nevada Legislature to certain proposed changes to the federal Medicare and Social Security programs. (BDR R-699)

MR. STEWART:

Assembly Joint Resolution 7 expresses the opposition of the Nevada Legislature to certain proposed changes to Medicare and the Old-Age and Survivors Insurance provisions of the Social Security Act of 1935. I have submitted a work session document ([Exhibit F](#)).

SENATOR SEGERBLOM MOVED TO DO PASS A.J.R. 7.

SENATOR ATKINSON SECONDED THE MOTION.

SENATOR SETTELMAYER:

Changes may be necessary to social security retirement age. I will vote no.

THE MOTION PASSED. (SENATOR SETTELMAYER VOTED NO.)

\* \* \* \* \*

Senate Committee on Legislative Operations and Elections  
May 15, 2017  
Page 15

CHAIR CANNIZZARO:

We will open the work session on A.J.R. 9.

**ASSEMBLY JOINT RESOLUTION 9**: Urges Congress not to repeal the Patient Protection and Affordable Care Act or its most important provisions. (BDR R-1084)

MR. STEWART:

Assembly Joint Resolution 9 urges the United States Congress to not repeal the Patient Protection and Affordable Care Act and to fully preserve the benefits the Act affords many Nevadans. I have submitted a work session document ([Exhibit G](#)).

SENATOR SEGERBLOM MOVED TO DO PASS A.J.R. 9.

SENATOR ATKINSON SECONDED THE MOTION.

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

\* \* \* \* \*

CHAIR CANNIZZARO:

We will open the work session on A.J.R. 11.

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

MR. STEWART:

Assembly Joint Resolution 11 urges the United States Congress to ensure that the Intermountain West Corridor will follow the existing U.S. Route 95 corridor through Mineral County. I have submitted a work session document ([Exhibit H](#)).

SENATOR SETTELMAYER:

During testimony, we learned that Senator Don Gustavson, Senatorial District No. 14, had not been contacted to sign on to the bill. Mineral County is in Senator Gustavson's district. I request delaying a vote on A.J.R. 11 until the matter is resolved.

CHAIR CANNIZZARO:

We will research the required process for including Senator Gustavson's name on the bill and consider A.J.R. 11 at the next Committee meeting. We will close the work session on A.J.R. 11 and open the hearing on A.B. 384.

**ASSEMBLY BILL 384 (1st Reprint)**: Revises provisions governing the consideration of the criminal history of an applicant for employment by the State or a county, city or unincorporated town. (BDR 23-33)

ASSEMBLYMAN TYRONE THOMPSON (Assembly District No. 17):

I would like to begin my presentation of A.B. 384 by introducing a man named Jim. Jim was looking for a job. He had been looking on the Internet and found a position that was ideal for him. He had the experience and educational background required on the job announcement. He knew he had a strong work ethic and was sure he would be a top applicant. He began completing the application and was asked if he had ever been arrested or convicted of a crime. Jim had to pause.

Assembly Bill 384 would revise provisions governing the consideration of the criminal history of an applicant for employment by the State, a county or a city. A nationwide movement known as Ban the Box works toward removing questions of conviction history from job applications. The proponents want to ease hiring barriers and create a fair chance in competing for jobs. This change allows employers to get to know applicants by their qualifications without being judged on their criminal history.

BETH AVERY (National Employment Law Project):

I am a staff attorney for the National Employment Law Project with expertise in criminal records and employment. I have submitted a presentation ([Exhibit I](#)).

The Ban the Box movement has been embraced across the Country and has been adopted in 27 states as illustrated on page 2 of [Exhibit I](#). All of these policies apply to the hiring of government employees, and nine of the states have also adopted laws applicable to the private sector. In 2016, ban-the-box policies were adopted in seven states. In 2017, 3 more states are considering legislation.

I will use two terms in my discussion, "ban the box" and fair chance laws. Page 3 of the presentation describes the term fair chance laws. Fair chance



laws do more than just remove the conviction inquiries from job applications. Assembly Bill 384 is a fair chance law and calls for employers to look at applicants' records and consider certain commonsense factors: the age of the person when the offenses were committed, the nature of the offenses and how they relate to the jobs being sought. Convictions vary in their relevance to jobs.

The Equal Employment Opportunity Commission has endorsed Ban the Box and instructs all employers to conduct individualized background assessments. More than one in four Nevadans have an arrest or conviction record. They are our neighbors and community members.

It is difficult to get a job when an applicant has a record. It disparately impacts people of color. On page 6 of [Exhibit I](#), the chart demonstrates this point. Black people in Nevada are incarcerated at four times the rate of white Nevadans. A study by a Harvard professor found that when white applicants indicated a criminal record on job applications, job callbacks were reduced by 50 percent. Black applicants' job callbacks were reduced by nearly 66 percent. This illustrates the need to ban the box. People are rejected at the first step of the hiring process before they have a chance to demonstrate their qualifications, personalities or work ethics. They never have a chance to explain the circumstances of their criminal history.

Nearly half of the children in the United States have at least one parent with a criminal record. Requiring disclosure of a criminal record on job applications affects individuals and their families and communities. Nevada's children need all the support possible.

Economists estimate that the national gross domestic product (GDP) is reduced by \$78 billion to \$87 billion annually because people with prison records do not have a chance for employment. Employment reduces recidivism. Studies show it is one of if not the most important factor in helping individuals avoid another offense.

This is a first step in a long process. Individuals deserve a fair chance to work and to be viewed as more than a checked box on an application but as a person with qualifications and experience and the ability to contribute to the workplace and the community.

SENATOR GANSERT:

Applications are electronically screened. Assembly Bill 384 provides that an appointing authority cannot ask about an applicant's criminal history until a conditional offer of employment has been extended. Is that correct?

ASSEMBLYMAN THOMPSON:

You are correct. The box would be removed from the application and would not be included in the prescreening process. This is also an opportunity to become familiar with an applicant without any prejudgment. Once employers know the applicant, they may be more understanding about any criminal record.

SENATOR GANSERT:

Is A.B. 384 a variation of legislation in other states? Do other states require a background check only after a job offer has been made?

Ms. AVERY:

The goal is to bifurcate the process. If an employer is aware of an applicant's record at the time his or her character and qualifications are assessed, the stigma will affect the assessment. We suggest that one step is to assess for qualifications. After that assessment is complete, employers can request criminal background information and make a decision about relevance.

SENATOR GANSERT:

Are there variations in other states? Do other jurisdictions require that applicants be asked about their criminal history only after a conditional offer of employment has been made? Can you provide details?

Ms. AVERY:

Ban the Box laws vary around the Country. I can provide detailed information.

SENATOR SETTELMAYER:

Will A.B. 384 apply to all positions? It may be inappropriate to hire individuals with criminal histories for particular State jobs.

ASSEMBLYMAN THOMPSON:

There are a number of ways to address this concern. For example, a job announcement for a financial analyst might specify some restrictions and requirements. Assembly Bill 384 is the result of consultation with human resource professionals, and we see many opportunities.

SENATOR SETTELMAYER:

There are background restrictions on licensure applications. In State employment, some positions may be more restrictive than others in terms of background requirements.

ASSEMBLYMAN THOMPSON:

We have excluded peace officers, fire fighters and schools. Fire service personnel are not excluded. Individual jurisdictions can make their own determinations.

DELEN GOLDBERG (City of North Las Vegas):

On January 1, the City of North Las Vegas became the first government entity in Nevada to ban the box. We removed, from the majority of our city employment applications, all questions about candidates' prior convictions in order to ensure all applicants receive a fair chance at employment and are evaluated only on their qualifications and skills.

Mayor John Lee first learned about Ban the Box when Assemblyman Thompson introduced A.B. No. 348 of the 78th Session. North Las Vegas was the only governmental entity testifying in favor of the bill. At the time, we were told we were brave. We think this policy makes sense.

Exceptions to the ban-the-box policy include police and fire personnel. The City of North Las Vegas continues to conduct background checks on all potential hires. However, we make no inquiries about criminal convictions until there has been personal contact with candidates during the first interview or after. Delaying disclosure allows candidates to be evaluated on merit alone without the potential stigma of a past conviction. During direct contact, candidates can explain the specific details and circumstances of their convictions and may positively impact the hiring decision.

Banning the box is good public policy. Studies show that recidivism rates drop dramatically when people are employed. Without a chance to work, these people are being set up to reoffend. We support A.B. 384.

SENATOR GANSERT:

At what point do you ask about an applicant's background?

MS. GOLDBERG:

The policy of the City of Las Vegas varies from A.B. 384. We ask after initial contact has been made, typically after the first interview. We do not wait until a conditional offer has been made.

MONIQUE NORMAND (Progressive Leadership Alliance of Nevada):

We support A.B. 384 because we believe the previously incarcerated deserve a second chance. This will uplift communities and families in Nevada. Many employers simply throw away applications when the criminal history box has been checked. This gives previously incarcerated people little or no chance to get into the process.

Employing previously incarcerated people improves public safety as recidivism and homelessness decrease. Recidivism costs Nevada taxpayers \$6 million a year. Families and children also suffer when previously incarcerated individuals cannot find employment. Upward mobility is a challenge to an ex-offender.

This is also a racial justice issue. African Americans represent more than 29 percent of Nevada's prison population and only 9 percent of the general population. We must ensure that previously incarcerated individuals have an equal chance of being productive citizens and are able to provide for themselves and their families. Assembly Bill 384 is one step in this direction.

CASSANDRA LITTLE:

I have worked in this community for more than 25 years as a social worker, a therapist and founder of a social services agency. In 2010, my agency was closed by Medicaid and Washoe County. In 2013, I was indicted and sentenced to serve 33 months for health care fraud. On September 5, 2015, after serving 23 months in federal prison, I was sent to a halfway house in San Francisco for 5 months. On February 5, 2016, I was finally able to come home. I was instructed to contact my probation officer within 48 hours. The first requirement of me on my parole officer's list was to find employment. For months, I looked for work and always checked the box admitting to a criminal record.

Today, I still do not have a job. My level of education, many years of work experience and passion for serving my community have not made a difference. This is disheartening. I have worked since I was 15 years old. As a formerly incarcerated mother, I want to financially support myself and my family.

I ask Committee members to put themselves in my shoes. Imagine, seven years from now after fighting and losing a legal battle, losing everything you have worked for, serving a prison sentence, living in a halfway house, being compliant with every probation rule and regulation, paying every fine and completing your debt to society. Now imagine trying to get a job that reflects your education and experience, but you cannot get an interview because you have to check the box.

Through my experience, I have gained an understanding for some of the root causes of recidivism and mass incarceration. The lack of access to employment is on top of the list.

KELLY CROMPTON (City of Las Vegas):

We support A.B. 384 after some changes were agreed upon. We still would like the bill to identify some of the programs concerning young populations. There should be an ability to more closely screen applications for positions with these programs.

ALANNA BONDY (American Civil Liberties Union of Nevada):

Similar legislation in other states has received bipartisan support. Republican Senator Roger Chamberlain of Minnesota, a cosponsor of nearly identical legislation, said the best thing someone on parole or probation can do to be reintegrated into society is to get a job.

An estimated 70 million Americans have criminal convictions. Disclosure reduces the likelihood of being called back for an interview by 50 percent. Banning the box will improve employment opportunities, the economy and public safety. Applicants can support themselves and their families through legal means and will be encouraged to turn over a new leaf once they have served their sentences or otherwise fulfilled their obligations.

In 2014, poor job prospects for individuals with criminal convictions reduced GDP by nearly \$87 billion, according to the Center for Economic Policy and Research. Assembly Bill 384 is good policy and will serve to benefit individuals with criminal records and society as a whole.

ALEXANDRIA DAVIS (Progressive Leadership Alliance of Nevada):

I support A.B. 384. This bill will help Nevada communities and families. As someone who has family members who have been incarcerated and have

reentered society, I have witnessed this difficult process. My sister and brother-in-law have been unable to find employment after reentry. They are now back in the prison system. People need to be able to provide for themselves.

ANTHONY GILYARD (Foundation for an Independent Tomorrow):

We support A.B. 384. We serve returning citizens who are looking for employment. When we help an individual, we help the family. Our organization helps individuals earn certificates and licensures. Removing the criminal record box will allow applicants to be credited for their work and expertise in earning a certificate or license.

We agree it is important that a criminal history does not affect the position or the duties of the job. I have a criminal record but have been able to earn an associate degree and a bachelor's degree and am now working as a counselor.

JASON MAKRIS:

I support A.B. 384. The bill is a step in the direction of fixing our criminal justice system and upholding the American ideal of equal justice under the law. My education and professional experience pertinent to A.B. 384 began when I was an undergraduate student at the University of Nevada, Las Vegas. During that time, I was an intern for Patti Kitchen at the North Las Vegas Detention Center. I worked in the inmate law library. Ms. Kitchen began a program of life and job skills training for inmates who were soon to be released. We wrote a grant and obtained funding for the program. Programs such as these are essential to communities in reducing recidivism rates, decreasing crime and empowering inmates with a sense of self-worth and accomplishment. These programs also send the message that communities believe in former inmates.

During my law school education, I was chosen to be part of the California Innocence Project. We were required to interview clients and their families. From the family interviews, we were provided insights into our clients histories not always reflected in the official record. I learned about economic disempowerment of individuals, families and communities.

I began practicing law in Las Vegas in 2008. My experience has been both in civil litigation and criminal defense, at both the trial and appellate level. A year ago, a close friend was arrested. He spent 6 months in a detention center and was given probation. I sponsored him during his probation period. He was required to find a job and housing. His criminal history has made this impossible.

Economic empowerment is the most important cornerstone we can provide as a community and a State to those who seek to better their lives and leave their criminal record in the past. Assembly Bill 384 not only provides that opportunity, but frees probationers and parolees by preventing discrimination based on criminal history.

Assembly Bill 384 does not absolve those with criminal histories from taking personal responsibility for their actions, but it sends a powerful message. Not only do such individuals have the support of family and friends but also the support of the State and the community in which they live to provide economic empowerment so lacking in their past lives. The State will no longer be a roadblock to their rehabilitation but a partner in the road to their rehabilitation.

Assembly Bill 384 allows individuals to know they are greater than the sum of their parts and they are worthy of the opportunity to become full and equal participants in their communities, the State and our democracy.

Martin Luther King Jr. said the arc of history is long but bends toward justice. Assembly Bill 384 will provide the cornerstone to healing of individuals, families and communities through economic self-empowerment.

OTIS LANG:

My son has been out of High Desert State Prison for one week. Assembly Bill 384 would help him find a job. I wonder who would oppose this bill. I was out of work for a long time and have been able to help three others find jobs.

JODI TYSON (Three Square of Southern Nevada):

Those with convictions face income limitations and suffer chronic food insecurities. We support A.B. 384.

Three Square does not require disclosure of criminal convictions on our applications and have employed several ex-offenders. We want to provide an opportunity for a second chance. We do require experience specific to each job.

ALYCIA SEABOLT BARNWELL:

I am a postgraduate student in social work and have served as an intern at the Washoe County Public Defender's Office. I support A.B. 384 because it will

improve employment opportunities for people following convictions, and it will help their families.

JOHN PIRO (Office of the Public Defender, Clark County):

Parolees are required to pay fees and restitutions. This is difficult to accomplish without a job. Assembly Bill 384 will help people find work. They can meet an employer without having been automatically disqualified for a job opportunity. This measure could eventually put me out of business. I would be happy if that happened.

TREY DELAP (Foundation for Recovery):

We support A.B. 384. All too often, addiction recovery comes with criminal baggage. Much of the work we do at Foundation for Recovery focuses on job readiness, job placement and how to prepare for conversations about criminal backgrounds.

We recognize the significance of recovery. Employees in recovery are valuable assets to their organizations. Public employers have an advantage in accounting for people who have this type of impediment because of the capacity to absorb risk and identify problems early.

Homelessness is one of the key reasons for relapse within the first year following incarceration. We support A.B. 384 because we support recovery.

DAVID CHERRY (City of Henderson):

We appreciate some of the amendments to A.B. 384. There are a few more issues we would like to see addressed before we could support the measure. We are looking for a bill that best meets our needs as a city employer. We do not have an issue with removing the box on the application from the initial screen. We want to give applicants a chance to present themselves as candidates.

We agree with the idea of requesting criminal background information following the initial screening and at the time of a conditional offer of employment. However, we have identified three areas of concern. First, A.B. 384 does not acknowledge what an employer can do if a candidate is facing impending charges on an earlier arrest. In a situation like this, we would like to have the ability to ask the prospective employee to reapply once their case has been adjudicated. Second, language concerning cities in section 6, subsection 4,



paragraph (c), restrict considering, in hiring decisions, an infraction or misdemeanor for which a sentence of imprisonment in a county jail was not imposed. This is restrictive. Although jail time has not been imposed for a conviction, we need to consider the type of crime in our evaluation of a candidate. For example, an applicant who has a conviction for a DUI but has not served time in jail would not be suitable for a position driving city vehicles. We should have the discretion and ability to make these decisions. Lastly, if during the process we find applicants have misrepresented their criminal backgrounds, we should be allowed to withdraw any offer of employment.

We are requesting a change in section 6, subsection 5, paragraph (c). The language allows a rejected applicant to discuss the process with "the governing body of an incorporated city or a city officer." This may mean the right to speak to the mayor, a member of the city council or the city manager. It would more appropriate to speak to the human resources department or the equivalent. The amendment language we would like to see is "director of human resources or equivalent of an incorporated city or his or her designee."

KEITH LEE (Nevada Judges of Limited Jurisdiction):

We support most of A.B. 384. However, our court personnel are required to access certain information from the Nevada Criminal Justice Information System and from the National Crime Information Center to determine eligibility for bail, information for presentence and sentencing and other court-related information. Both the State and the federal Department of Justice prohibit access by ex-felons to these information systems. We could not proceed past the first step of the hiring process if an applicant were an ex-felon. We have suggested language to the sponsor of A.B. 384 that may address our concerns.

KENADIE COBBIN RICHARDSON (Workforce Connections):

Assembly Bill 384 supports our returning citizens by restoring their dignity and giving them a chance to become gainfully employed. I work with hundreds of employers both public and private and help them find talent that will help them be competitive in a global economy. Employers in Nevada do not have the luxury of discounting the talent and skills of 600,000 people. Thousands of jobs go unfilled and employers have to look outside our State. Our workforce is not highly educated, lacks middle skills and is not competitive. Give employers the opportunity to hire the talent they need. They have no idea who they are dismissing at the start of the hiring process. Do not allow the timing of the information to be a barrier for your support. Nevada employers are hard-pressed

to find skilled workers. It is impossible to please everyone, but we must take the road that gives most people, including employers, the step they need to find a workforce that makes them competitive. Both the employer and the job seeker will benefit from A.B. 384.

DON SODERBERG (Director, Department of Employment, Training and Rehabilitation):

As a member of the Governor's cabinet, I am neutral on A.B. 384. We view this as a workforce issue. The Nevada workforce is growing and needs to be diverse in skills. By eliminating a certain segment of the workforce, we may be hurting ourselves. The State application does have a box requiring disclosure of a criminal background. We have a policy of not dwelling on the box in our enlightened self-interest.

My agency is experiencing a 20 percent employee vacancy rate. We conduct outreach to individuals in reentry, and yet there are only a few employees in the Department of Employment, Training and Rehabilitation with criminal records. There are many qualified applicants who do not apply when they have to declare their criminal history. We know from our work with people with criminal records, they are discouraged when they see the box on an application.

Many new companies are hiring in Nevada. Some have no-felony rules and will not consider applications from an ex-felon. We are hoping to convince them to change their policies. Assembly Bill 384 applies only to governmental entities. The people who have been hired as a result of our outreach efforts are sometimes overqualified. This is a benefit to our agency.

SENATOR GANSERT:

When do you inquire about an applicant's criminal background?

MR. SODERBERG:

The box is on the application. We are aware of a criminal background, but do not fully consider it in the first steps of the process. We take the view that it is important to meet with qualified applicants.

SENATOR GANSERT:

Checking the box does not necessarily disqualify an applicant. Is that correct?

Senate Committee on Legislative Operations and Elections  
May 15, 2017  
Page 27

MR. SODERBERG:

Yes. We use the same State application as every other State agency.

ASSEMBLYMAN THOMPSON:

Workforce Connections former Executive Director Ardell Galbreth was a driving force behind this legislation. He passed away recently, but this was his passion. We are ready to speak to anyone who is opposed or neutral to A.B. 384. We will adopt the amendment proposed by the City of Henderson.

SENATOR ATKINSON:

This legislation was introduced last Session. What happened?

ASSEMBLYMAN THOMPSON:

Assembly Bill No. 348 of the 78th Session was not passed out of Committee.

SENATOR ATKINSON:

Did you address the concerns expressed last Session?

ASSEMBLYMAN THOMPSON:

Most of the governmental jurisdictions were neutral. Assembly Bill 384 does not require attaching a copy of the disqualifying background check to a job denial notice. If anyone has objections, it is important to work them out.

SENATOR ATKINSON:

If an applicant is not required to provide criminal history information until a conditional job offer is extended, is it possible that other qualified applicants will be lost in the process? The hiring process takes a long time.

I will be available to participate in any working group you organize.

ASSEMBLYMAN THOMPSON:

We have had discussions on this issue. The City of North Las Vegas has banned the box, and we can look to them for guidance.

CHAIR CANNIZZARO:

We will close the hearing on A.B. 384.

Senate Committee on Legislative Operations and Elections  
May 15, 2017  
Page 28

MR. STEWART:

In regard to the question of adding Senator Don Gustavson's sponsorship to A.J.R. 11, Senate Standing Rule 112 applies only to Senate bills. An amendment would be required to make this change.

SENATOR ATKINSON:

Can a member of our Committee request an amendment?

MR. STEWART:

Yes.

CHAIR CANNIZZARO:

We will address the issue at our next meeting.

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

Senate Committee on Legislative Operations and Elections  
May 15, 2017  
Page 29

CHAIR CANNIZZARO:  
I close the meeting and adjourn at 5:55 p.m.

RESPECTFULLY SUBMITTED:

---

Jan Brase,  
Committee Secretary

APPROVED BY:

---

Senator Nicole J. Cannizzaro, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	2		Agenda
	B	8		Attendance Roster
S.C.R. 6	C	1	Kent Ervin / Nevada Faculty Alliance	State Public Employee Comparison
A.B. 272	D	29	Michael Stewart	Work Session Document
A.B. 392	E	1	Michael Stewart	Work Session Document
A.J.R. 7	F	1	Michael Stewart	Work Session Document
A.J.R. 9	G	1	Michael Stewart	Work Session Document
A.J.R. 11	H	1	Michael Stewart	Work Session Document
A.B. 384	I	12	Beth Avery / National Employment Law Project	Presentation