

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

**Eightieth Session
April 24, 2019**

The Senate Committee on Legislative Operations and Elections was called to order by Chair James Ohrenschall at 4:06 p.m. on Wednesday, April 24, 2019, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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 James Ohrenschall, Chair
Senator Yvanna D. Cancela, Vice Chair
Senator Heidi Seevers Gansert
Senator Keith F. Pickard

COMMITTEE MEMBERS ABSENT:

Senator Marcia Washington (Excused)

GUEST LEGISLATORS PRESENT:

Senator Dallas Harris, Senatorial District No. 11
Assemblywoman Shannon Bilbray-Axelrod, Assembly District No. 34
Assemblywoman Brittney Miller, Assembly District No. 5
Assemblyman Tyrone Thompson, Assembly District No. 17

STAFF MEMBERS PRESENT:

Michael Stewart, Committee Policy Analyst
Kevin Powers, Committee Counsel
Janae Johnson, Committee Secretary

OTHERS PRESENT:

Barry Fadem, President, National Popular Vote
Chip Evans, Indivisible Northern Nevada

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Laura Hale, Indivisible Northern Nevada
Mary Richardson, Indivisible Northern Nevada
Phillip Kaiser, Washoe Education Association
Megan Ortiz, American Civil Liberties Union
Chris Daly, Nevada State Education Association
Sofia Alvarez
Disha Patel
Sarah Mahler, Indivisible Northern Nevada
Jean Melby-Mauer, Paradise Las Vegas Indivisible
Will Pregman, Battle Born Progress
Daryl Elliott
Sharon Howard
Laynette Evans, Indivisible Northern Nevada
Kathy Williams, Indivisible Northern Nevada
Autumn Zemke
Ruth Flack, Indivisible Northern Nevada
Gabrielle D'Ayr
Laura Dolajak
Cecilia Lampley
Cynthia Kennedy
Janine Hansen, Nevada Families for Freedom
Lynn Chapman, Nevada Families for Freedom; Eagle Forum; Washoe County
Chair, Independent American Party
Mary Rooney
Deira Taucered
Mack Miller
Trent England, Oklahoma Council of Public Affairs
Gene Robinson
Maurice White
Linda Cannon, NevadansCAN
Linda Buckardt, NevadansCAN
Karen Dzierzewski
Jim Hindle
Juanita Cox, Citizens in Action; Nevada Republican Assembly
Diane Baranowski, President, Nevada Federation of Republican Women
James Verrees, Clark County
Debbie Miller-Joseph, Active Republican Women
Jim Sallee
Tim Stoffel

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Bob Russo
Mary Porter
Trudy Aberdilly, Southern Hills Republican Women's Club
Julie Hereford, NevadansCAN
Darryl Cleveland
Joy Trushenski
Jim DeGraffenreid, Vice Chair, Nevada Republican Party
Doug Busselman, Nevada Farm Bureau Federation
Andrew Quinn
Theresa DeGraffenreid
Shawn Meehan, Guard the Constitution
Julie Moore
Charlene Young, Nevada Eagle Forum

CHAIR OHRENSCHALL:

I will open the meeting with Assembly Bill (A.B.) 186.

ASSEMBLY BILL 186 (1st Reprint): Makes various changes related to elections.
(BDR 24-678)

ASSEMBLYMAN TYRONE THOMPSON (Assembly District No. 17):

Assembly Bill 186 will ensure every Nevadan that their vote matters and will count as referenced from my testimony ([Exhibit C](#)).

ASSEMBLYWOMAN BRITTNEY MILLER (Assembly District No. 5):

I support A.B. 186. I am going to share my perspective as a fifth grade classroom teacher. In my first year of teaching, I gave a lesson about elections. I explained the process to my students on how officials are elected. There has been four times in history where the person who has the most votes did not win. These are fifth graders, and they cannot conceive how the person with the most votes did not win. The presentation is an explanation of how I explained the election process to them ([Exhibit D](#)). In Nevada, elections can be determined by one vote. Imagine you are pleased with the results from that election, but a handful of votes determines the election. Legislators have worked hard to make sure that people go vote. I am simply asking that we make sure that every single person's vote counts.

BARRY FADEM (President, National Popular Vote):

Since 2005, I have been serving as the President of the National Popular Vote, which is a nonprofit organization. This proposal is based on two provisions of the U.S. Constitution. The first provision gives state legislators the exclusive right to make decisions on electoral votes. The second provision is the U.S. Constitution, from the Founding Fathers, gives authority to the states for power over interstate compacts. Nevada is familiar with compacts and has joined other states. The National Popular Vote Interstate Compact is a simple proposition. The states that join the compact agree to award all their electoral votes to the candidate winning the total votes in all 50 states and the District of Columbia. This is the true National Popular Vote winner.

The most important part of the compact is when it goes into effect. The National Popular Vote Interstate Compact only goes into effect when enough states pass the compact and join to equal a majority of electoral votes in the Electoral College—which is 270. Any presidential candidate who receives 270 electoral votes is guaranteed to be elected President. The compact says when enough states have joined to equal 270 electoral votes, it will go into effect for the next presidential election. Oregon is seven more electoral votes; that passed the Senate and Governor Kate Brown has indicated it will be signed. With Oregon and Nevada joining the compact, it equals 202 electoral votes, leaving only 68 more votes for it to go into effect.

CHAIR OHRENSCHALL:

A lot of voters are being underrepresented. In presidential campaigns now, so many of the states are written off. If enough states enter this compact to get 270 votes, does this change the way presidential candidates will reach out to voters?

MR. FADEM:

When the National Popular Vote compact goes into effect, every vote in every state will count equally. This will lead to a 50 states campaign which means that every voter in every state of the U.S. will participate in the presidential campaign. Every vote in every state will be equal in the total. It will change the way presidential elections are run, and it will give the voters what they are asking for—which is to make my vote equal to every vote cast in the Country.

CHAIR OHRENSCHALL:

A state can decide how the electors can vote, decide whether it enters a compact or withdraws from a compact. Nevada is a unique western state. In 1970s, the Legislature voted down the Equal Rights Amendment. In the Seventy-ninth Session, most of the Legislators voted to pass the Equal Rights Amendment. If A.B. 186 were to pass and in four years the constituents felt this is not what they wanted, does this tie Nevada or the Legislators' hands in terms of pulling out of the compact or anything else to prevent us from leaving the compact?

ASSEMBLYMAN THOMPSON:

Are you referring to before it reaches the 270 and the Legislature decides to pull out of the compact?

KEVIN POWERS (Counsel):

The Legal Division is a nonpartisan legal agency; we do not support or oppose any particular viewpoint, policy or piece of legislation. With regard to this particular compact, like any other compact. The Legislature would enact it into law; however, after it is enacted into law it is no different than any other law. The Legislature could repeal that law, and therefore remove itself from the compact. If enough states become part of the compact that you have 270 electoral votes, there is a provision in the compact that says, "if a state withdraws within less than six months before the end of presidential term, then that withdraw is not effective for that presidential election. It only becomes effective the next presidential election." That is part of the agreement, and if the State entered the agreement, it would have that effect. The State could still withdraw, it just would not affect that presidential election if the withdraw was within that six-month window before the end of presidential term.

CHAIR OHRENSCHALL:

Other than that window, there would be nothing tying Nevada's hands to withdraw from the compact?

MR. POWERS:

No. There would certainly be nothing tying the Legislature's hand from withdrawing from the compact before there is a sufficient number of electoral votes for the compact to become effective. After the compact would be effective, the only limitation for the withdraw is that six-month window. The

Legislature could withdraw, but it just would not be effective until the next presidential election.

SENATOR CANCELA:

I want to understand, practically, how this works. The bill talks about the chief election official in Nevada. Would that be the Secretary of State?

MR. FADEM:

Yes.

SENATOR CANCELA:

The secretary of state would then determine which slate got the most votes in that state, correct?

MR. FADEM:

The secretary of state is going to total the votes cast in the state. That is correct.

SENATOR CANCELA:

The secretary of state adds up the votes, and one slate has the most votes. That total then gets shared with other compact states, and we come up with a national total.

MR. FADEM:

The figures are from all 50 states that are shared and combined, not just the votes from the compact and the states.

SENATOR CANCELA:

All 50 states have their numbers combined, and from that pool is where we would decide who the president and vice president are?

MR. FADEM:

Yes.

SENATOR CANCELA:

Under this model, your state could elect one slate and because it does not fit with the national numbers, then your state's numbers are invalidated? I know this is true under the electoral system. There are lots of states where that state goes red or blue but that is not how the candidate gets chosen. It just seems

like your state is no longer represented. Instead your state represents where the Country goes.

MR. FADEM:

One way to look at this is when a voter casts a vote for president, the thing individuals are most concerned about is does the candidate become president or not. It may be of interest anecdotally that he or she won the state. What the voter cares about is, did my candidate win the presidency? We believe the voters view the election through the national filter. The electoral votes of a state could go to a candidate that the voters of that state did not vote for. That is the National Popular Vote system—every vote counts towards the national total.

SENATOR CANCELA:

But it is not. Because your vote is not counted in a one-to-one way, it still keeps the electoral system in place. The vote is still not counted one to one because your state is not representing that candidate. If it were a true National Popular Vote model, then it would be dismantled. But this keeps the electoral system intact, correct?

MR. FADEM:

To achieve National Popular Vote where the votes determine the presidency is determined by the total popular votes of the 50 states and the District of Columbia. You do not need to abolish the Electoral College to do that. The National Popular Vote Compact would accomplish that. You add up all the votes casted in the 50 states and the District of Columbia. The candidate is going to receive that compact with 270 electoral votes and is guaranteed to be elected president. It absolutely reflects the voters of this Country by the National Popular Vote.

SENATOR CANCELA:

It just prevents states from having their state represent the majority voters with their votes.

MR. FADEM:

Under the current system, winner takes all. The votes of the candidate that did not win the most popular vote, where do those votes go? The votes disappear and do not count. For example, the red candidate won Nevada, all the blue votes that were the majority would still count. These votes go into the National

Popular Vote total. It makes every vote in every state count, no matter which candidate wins that state. This is huge benefit. The yes votes win states' electoral votes, but the other votes just disappear and do not count for anything. The National Popular Vote would count.

SENATOR CANCELA:

In reporting the National Popular Vote total, do all numbers get put into the National vote total?

MR. FADEM:

Yes.

SENATOR PICKARD:

Assembly Bill 186 gave me the incentive to do some constitutional research and look at caselaw. There are two offices that are elected by the Electoral College, which are the president and vice president. These are only two national offices the people vote for—every other office is on the state level. The Founders came up with a novel way of making sure that the less populated states had disproportionate influence so that populous states did not run over top of them. It gave them extra energy to influence the national election. I think it is impossible to do a physical 50-state campaign. In the period of time we see candidates running for office, they cannot effectively campaign in every single state. Candidates tend to focus on areas that have the larger concentration of population. When you talk with the rural candidates, they will try to visit every area but spend the most of their time in the areas where most the votes come from.

In *Steel v. Multistate*, the U.S. Supreme Court did make exceptions to the requirement under U.S. Constitution Article 1, section 10 in which compacts are only permissible with consent from Congress. The exceptions had to do with state-specific issues. For example, in *Virginia v. Tennessee*, the case had to do with a border between the two states. The Supreme Court found that there was no opportunity for federal input. In *Steel*, this involved the state tax laws, again with no federal implications. Are you suggesting A.B. 186 is affecting federal elections and does not run afoul of the Article 1, section 10 prohibition?

MR. FADEM:

There is no requirement in the U.S. Constitution since the congressional consent is obtained before the compact has reached its trigger. When we get to 270 and

the compact goes into effect, we have never stated at that point that we would not try and obtain congressional consent. However, I am not the U.S. Supreme Court litigator who is part of the drafting team for the compact in 2005. I am not a constitutional lawyer, but I have read the cases. In terms of encroachment on federalism, there is no better example of federalism than what the Founding Fathers did by saying to states you decide how to award the electoral votes and interstate compacts. The states are using that power to determine how to award the electoral votes. It may be the best case to present to the U.S. Supreme Court in terms of not affecting federalism.

SENATOR PICKARD:

In the *Virginia* case, the litigation started before the resolution. The Supreme Court said "they must actually obtain consent prior to." I expect in this case they did not have to because it had to do with the two states. It did not cross over into a federal issue.

MR. POWERS:

With regard to the Interstate Compact Clause, what the U.S. Supreme Court cases have provided is that states only require congressional consent or approval if the agreement tends to increase political power of the states at the expense of federal supremacy or negatively affect the federal sphere. The leading case on the Presidential Electors Clause from 1892 was a U.S. Supreme Court case called *McPherson v. Blacker*. The U.S. Supreme Court interpreted the Presidential Electors Clause, which provides that each state shall appoint in the matter in its Legislature thereof, may direct a number of electors equal to the number of electors that the state is entitled to. With *McPherson*, the U.S. Supreme Court specifically said "the Presidential Electors Clause was drafted by the framers to exclude federal and congressional influence." The whole point of the Presidential Electors Clause was to make this an issue of the state and not a federal issue. Therefore, if the states were to enter into this agreement, it is the opinion of this office that it would not tend to increase the political powers of the states at the expense of federal supremacy because the whole point of the Presidential Electors Clause is to keep the federal government out of the Electoral College and keep it only within the states.

The opinion of this office is based on our conclusion that this legislation is more likely than not constitutional. But there is a reason we come to that conclusion. No person out there, no matter how experienced they are in constitutional law, can conclude one way or another whether this legislation is conclusively and

absolutely constitutional. The constitutional adjudication at the U.S. Supreme Court has created for us, provides us a way to resolve those constitutional questions. It is called the presumption of constitutionality. What the U.S. Supreme Court said, "State statutes, like federal statutes, all enjoy a presumption of constitutional validity until judicially declared invalid." In this case when there is even a question as to whether or not this compact is constitutional, that question has to be resolved in the favor of the constitutionality because of the presumption of constitutionality.

It is the opinion of this office based on presumption of constitutionality and history underlying the Presidential Electors Clause this legislation is more likely than not constitutional under the Presidential Electors Clause, and it most likely does not require congressional approval under the Interstate Compact Clause. Even if it did require congressional approval, it can be obtained after the states enter into the compact; therefore, it does not invalidate the compact, it just requires congressional approval. Congress can give that approval at any time after the compact becomes effective. Congress does not need to disapprove it or approve it immediately after it becomes effective. Congress can approve at any stage after all the states have entered the compact.

SENATOR PICKARD:

If a state votes blue but the National Popular Vote goes red, our votes go into that total. This is a red herring? The National Popular Vote has already decided who the winner is. The fact that Nevada voted blue but now it is suppressed, is it true then votes are still suppressed?

MR. FADEM:

If Nevada went blue, all the red votes still count and go into the red national popular total. They are not wasted at all, and they do count equally, which is the point of the National Popular Vote, that every single vote counts.

SENATOR PICKARD:

How do we maintain the balance for the less populated states?

MR. FADEM:

Nevada is a small state, but smaller states are four electoral votes or less. There are 13 of them: 6 are red and 6 are blue, and only New Hampshire is a battleground state. One out of 13 small states have participated in the presidential election over several decades. The 14 states that have joined the

compact include Hawaii, District of Columbia, Rhode Island and Vermont. Four small states, and the legislators and the governors of those states agreed the current system does punish the smaller states.

SENATOR GANSERT:

In reading A.B. 186, I see you are trying to keep the framework of the Electoral College but then override the desires of each state because it is flipping everyone to the popular vote. It is disregarding the will of the voters in individual states like Nevada because keeping the framework does not match what you are ultimately trying to accomplish. In order to accomplish this goal, it would need a constitutional amendment. The voters of Nevada want their voices to be heard. There have been four candidates for the presidential election at the Legislature, and normally we would not see them. I think most of the Country would become fly-over states where candidates would not visit. When running for an election, the candidate looks at areas where they can get the most votes. Since Nevada has six votes, it is rather small compared to other states in the Nation. It is interesting to read how it works, but it really does not work with the framework we have now.

ASSEMBLYMAN THOMPSON:

I think the bill is ideal for Nevada. Nevada is a progressive state in the sense of allowing more voters to vote. For example, Nevada has more voting centers, same-day registration and early voting. I do not believe it is based on the population of the states; it is about the motivation and the civic engagement of opportunities within a state. There have been four presidential candidates in Nevada. We are the first state in the West to see candidates and this will continue. I see this as a great opportunity to allow more voters because of the other type of legislation that is mirrored and married with A.B. 186. Nevada is a state that actively votes.

CHAIR OHRENSCHALL:

States decide how their electors will vote. Some states have the electors go to whoever had the popular vote in that state, and some states divide it up by congressional district. Nevada joined the Uniform Faithful Presidential Electors Act. If an elector suddenly goes rogue and goes to the Electoral College and votes for a nonpopular candidate, in Nevada that elector would be fired and replaced because of the Uniform Faithful Presidential Elector Act. Even without the legislation on the compact, if Nevada or any other state wanted to require its electors to follow the national presidential popular vote, it could happen. A

state could require that even if there was not a compact because the state could require its electors to do that. Is that correct, Mr. Fadem?

MR. FADEM:

That is correct. It would not achieve National Popular Vote for the whole Country. One state could do that and has the legal right to do so.

CHAIR OHRENSCHALL:

A state is the master of how its electors will vote?

MR. FADEM:

One hundred percent.

CHAIR OHRENSCHALL:

Are there any other elected offices that you are aware of besides the president and vice president where the candidates getting the most votes are not necessarily going to win that office?

MR. FADEM:

No.

SENATOR DALLAS HARRIS (Senatorial District No. 11):

I support A.B. 186. The thing I like the most about this bill is that it works within the Constitution. Without having to offer a constitutional amendment, each state is free to decide how it would like to allocate its electors. The will of the state is not counting, but the state just represents the people. This is not a state-by-state-by-state versus what other states want for president. This is about what the people want for president. Referring to Assemblywoman Miller's presentation, it goes from class-to-class versus class. If we just looked at what all fifth graders wanted, we would get the total. We should be electing the president by what all voters want, not by what some states want. For those of us who are worried about presidential candidates not coming by Nevada anymore, I think it is because Nevada is situated in the primaries at the time we do our caucus. For example, candidates have no incentive to go to California because they are not going to win the electoral votes. However, if this was National Popular Vote, Republicans would have the incentive to go to California to get every last Republican vote. I would suggest that this would apply to every state to collect as many votes as you can wherever you can find them.

ASSEMBLYWOMAN SHANNON BILBRAY-AXELROD (Assembly District No. 34):

I support A.B. 186. I was on the Committee that heard this bill in 2017. When we think about the rural areas—when running for office, people spend a lot of time in these areas. Why is that? Because people in the rural areas vote. Spending time in the less populated areas is a payback in dividends. In the national race in 1960, Richard Nixon pledged to visit all 50 states, and he did visit them as promised. National swing votes happen all the time—with Democratic Lyndon B. Johnson winning by a landslide in 1964 and Richard Nixon winning 8 years later. The candidates go to the battleground states. Donald Trump and Hillary Clinton visited Nevada, Ohio, Michigan, Pennsylvania, Florida and North Carolina while ignoring several states including California, New York, Texas, Wyoming, Kansas, Massachusetts and Illinois. The majority of Americans sit on the sidelines while the election happens. Everyone deserves a chance to participate in the National Popular Vote.

CHIP EVANS (Indivisible Northern Nevada):

I support A.B. 186 as referenced from my testimony ([Exhibit E](#)).

LAURA HALE (Indivisible Northern Nevada):

Indivisible Northern Nevada supports A.B. 186 as referenced from my testimony ([Exhibit F](#)).

MARY RICHARDSON (Indivisible Northern Nevada):

We support A.B. 186 as referenced from my testimony ([Exhibit G](#)).

PHILLIP KAISER (Washoe Education Association):

I support A.B. 186. I teach my students every year that the Electoral College is the worst college. There is no football team, no cheerleaders—who wants to go there? I go into the real reason because sometimes the person who wins the most votes does not become the president. I want them to believe in democracy; with respect to the Founding Fathers when the Electoral College was created, most people could not read or write. Most blacks were slaves, Native Americans could not vote, women could not vote. We no longer live in that era, and the Electoral College never functioned the way the Founding Fathers thought it might.

It has always been a political football. The people could not collect ballots, could not communicate easily back then or were not even educated. The people are educated now with technology, and we have universal suffrage. We can

count all the ballots, and all the ballots should count. Some critics say that votes from the smaller states or rural states will be overlooked. They are now under the Electoral College system. Swing states get all the attention and small states do not. To get rid of the Electoral College would be a high bar, an amendment to the U.S. Constitution. States can decide how to allocate their electoral votes. How Nevadans cast their votes is up to us. Make our presidential election more democratic to make the votes count by making sure the person who wins the most votes actually wins.

MEGAN ORTIZ (American Civil Liberties Union):

The American Civil Liberties Union would like to echo testimony from Senator Harris and Mr. Kaiser. We support A.B. 186. There is further information provided in a document that was submitted on the National Popular Vote Compact ([Exhibit H](#)).

CHRIS DALY (Nevada State Education Association):

The Nevada State Education Association supports A.B. 186 as referenced from my testimony ([Exhibit I](#)).

SOFIA ALVAREZ:

I am student at Coral Academy of Science High School in Reno and participate in the We the People Program. I support A.B. 186 as referenced from my testimony ([Exhibit J](#)).

DISHA PATEL:

I am senior at Coral Academy of Science High School and participate in the We the People Program. I support A.B. 186 as referenced from my testimony ([Exhibit K](#)).

SARAH MAHLER (Indivisible Northern Nevada):

I support A.B. 186 as referenced from my testimony ([Exhibit L](#)).

JEAN MELBY-MAUER (Paradise Las Vegas Indivisible):

Paradise Las Vegas Indivisible supports A.B. 186 as referenced from my testimony ([Exhibit M](#)).

WILL PREGMAN (Battle Born Progress):

Battle Born Progress supports A.B. 186 as referenced from my testimony ([Exhibit N](#)).

DARYL ELLIOTT:

I support A.B. 186 as referenced from my testimony ([Exhibit O](#)).

SHARON HOWARD:

I support A.B. 186. My issues were ignored in two other states that I have lived in. My vote matters, your vote matters and all votes should be equal. Twice in my lifetime the Electoral College has overruled the popular vote. The unintended consequence of that is presidents who have used their political agenda to meet 270 votes. The unintended consequences that this system caused polarizes America into red and blue states. That polarization is destroying the fabric of the United States of America.

LAYNETTE EVANS (Indivisible Northern Nevada):

I support A.B. 186 as referenced from my testimony ([Exhibit P](#)).

KATHY WILLIAMS (Indivisible Northern Nevada):

I am representing Indivisible Northern Nevada. I support A.B. 186 as referenced from my testimony ([Exhibit Q](#)).

AUTUMN ZEMKE:

I support A.B. 186. It is a myth that we stay with the status quo because there might be unintended consequences to passing the National Popular Vote Compact. The compact has been thoroughly researched on every detail including unintended consequences. The current winner take all system does have unintended consequences. In the past five elections, the will of the majority has been awarded twice. In 2000 it led to the nonelected Supreme Court deciding the election based on data from a few counties in one state, 537 disputed votes. The Nationwide total of over 1,030,000 votes was never anyone's founding vision. In 2020, we celebrate the hundredth anniversary of the Nineteenth Amendment granting women the right to vote. The Fifteenth Amendment and 1965 Voting Rights Act further our belief in one person, one vote. Each of these adjustments has made us a more perfect union. If we had let fear of unintended consequences dictate our electoral system, think of what the status quo would look like now.

RUTH FLACK (Indivisible Northern Nevada):

I support A.B. 186 as referenced from my testimony ([Exhibit R](#)).

GABRIELLE D'AYR:

I support A.B. 186 as referenced from my testimony ([Exhibit S](#)).

LAURA DOLAJAK:

I support A.B. 186 as referenced from my testimony ([Exhibit T](#)).

CECILIA LAMPLEY:

I support A.B. 186.

CYNTHIA KENNEDY:

I am opposed to A.B. 186. If the Nevada Legislature passes the National Popular Vote, it will be signing on with the other states who no longer want America to be a constitutional republic. This does not in keep within the constitution and is against everything the Founding Fathers intended by creating the government. The American people who understand the Constitution and why the Electoral College was created are aware the election of the president by popular vote would be the downfall of the United States. The Electoral College ensures that every vote matters and not just those in the few states with massive urban centers. What A.B. 186 sets up is an effort to make sure that New York, Chicago, Los Angeles and a few large deeply Democratic cities dictate policy for the rest of the Nation.

James Madison explained in Federalist No. 39 regarding conformity of the plan to Republican principle that the election system should be a combination of state-based and population-based selection. States would have a number of representatives in the House of Representatives based on population while each state would have two members in the Senate. The President would be elected by the combined representation of state electors. Additionally in Federalist No. 10, James Madison outlined the danger of an overbearing majority. The mischief was defined as a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion and interest could infringe on the rights of other citizens.

I found the Assemblywoman's example, pizza versus taco presentation interesting, but this issue is about the President of the United States. If a map would have been shown reflecting the 2016 election, 85 percent of the counties in the U.S. voted for President Trump, even though Hillary Clinton won the popular vote. This is why we have the Electoral College.

JANINE HANSEN (Nevada Families for Freedom):

I am opposed to A.B. 186 as referenced from my testimony ([Exhibit U](#)).

LYNN CHAPMAN (Nevada Families for Freedom; Eagle Forum; Washoe County Chair, Independent American Party):

I am opposed to A.B. 186 as referenced from my testimony ([Exhibit V](#)). Contains copyrighted material. Original is available upon request of the Research Library.

MARY ROONEY:

I am opposed to A.B. 186. We are a representative government and not a democracy. That was not an oversight or a mistake on the part of the Founding Fathers. When the Electoral College was developed, it was intended specifically to help equalize the impact of smaller states versus larger, more populated states. Candidates campaign in areas where the people are when running for office. The book *Animal Farm* states "all animals are created equal but some animals are more equal than others." When comparing this to the National Popular Vote, all votes are created equal but some votes are going to be more equal than others. My vote in Nevada is not going to have the same impact as a vote in California, Florida, Chicago or New York. The presidency should be harder than a simple majority, it should take some thinking to win.

DEIRA TAUCRED:

I am opposed to A.B. 186. We elect the President with a 50 states election. I have worked in different states for elections. The election process across the Country is different while Nevada has early voting. There are other states that have ballot harvesting. From a legal sense, methodologies from state to state are different; the votes are not equal. You might be a qualified elector in one state and not in another. My concern is that Nevada has a duty of loyalty to its citizens, whether or not people outside of the State think it is improper that Nevada gets more notice because it is a swing state.

MACK MILLER:

I am opposed to A.B. 186. I have researched all the testimony that was provided online for this bill. If we are going to focus on the actual will of the vote of the people and to make every vote count, I have 222 pages from Nevadans that expressed their opinions to Legislators about A.B. 186. If we are going to argue that popular vote in Nevada is going to be for the best, I would

argue the popular vote from the will of the people are against this bill is concluded from the 222 pages of testimony from concerned voters.

TRENT ENGLAND (Oklahoma Council of Public Affairs):

I am opposed to A.B. 186. I stand in the footsteps of John F. Kennedy who greatly defended the Electoral College in the twentieth century. He is credited with singlehandedly stopping the Senate from forwarding a constitutional amendment for the abolishment of the Electoral College in 1956. National Popular Vote has no unintended consequences; anything that is proposed has unintended consequences. The Electoral College shapes our political ecosystem, and we should think of our politics as an ecosystem. We cannot predict what those things are, but we should try. I do not think they are honest about how they would reshuffle the deck. There are some benefits to their proposal, but there are many downsides, costs and questions for the National Popular Vote.

The Electoral College contains election disputes between individual states concerning boundaries of each state. In the 1960, 1880 and especially the 1876 elections there was fraud. The Electoral College pushes national coalition building in a way that we would lose under National Popular Vote. The Electoral College is similar to the system used in most developed democracies like Canada, United Kingdom and Australia. All of these countries elect their prime ministries through parliament, a two-state system that is similar to the Electoral College. Russia uses the system of National Popular Vote which is a democracy. The National Popular Vote has significant downsides, and it fails to say anything about recounts or disputes.

There are legal questions about the Interstate Compact Clause. The Interstate Compact Clause was incorrectly stated earlier; it does not give power to the states to create interstate compacts, it takes the power away unless there is congressional consent for power. The purpose of the Electoral College was created to empower the Legislators to figure out how to best represent the state in the presidential election process.

GENE ROBINSON:

One of the most equally appalling features of both parties are their contempt to rid over-the-top schemes to seize absolute and neverending power. The important efforts of the Republicans under Tom DeLay in the 1990s Congressional Districts are well known. It makes a mockery of democracy and insults the intelligence of the electors. I believe Democrats are confident in

winning the popular vote for the upcoming presidential election to engage in the same contempt for a constitutional protocol to gain absolute power. The bill would disfranchise two-thirds of Nevada's Electoral College votes. I am asking the Legislative majority from Clark County to refocus on education, to cease and desist from imposing its deep Californian-style taxation, nanny state agenda on Nevadans and to end the assault on constitutional parameters put in place by the Nation's founders concerning presidential elections. I am opposed to A.B.186.

MAURICE WHITE:

I am opposed to A.B. 186. We are not a democracy; governing a large diverse country is a messy business. The elections of the president and vice president are different to determine elections will not be controlled by larger population centers. The founders created a multistep process so each state would have a full voice in the election of president and vice president. This bill could keep Nevada voters from having any voice. Article 15, section 14 of the Nevada Constitution states "A plurality of votes given at an election by the people, shall constitute a choice, where not otherwise provided by this Constitution." The State Legislature has given the choice of president and vice president to the majority of voters from the Constitution. If the voters were not meant to have a direct influence on the election of the president and vice president, Article 15, section 14 would not have been structured this way. The intentions of the Founders and the Nevada Constitution by technicality would lose the faith of the voters. I remind you of the fate of Republicans who voted for the commerce tax that was no more of a technical change to the tax when Nevada voters overwhelming voted against the tax.

LINDA CANNON (NevadansCAN):

I am opposed to A.B. 186. To support it would disfranchise Nevada's voters and make the State irrelevant in the national election. The founders wisely set a specific path for preventing high density population areas from making decisions for the larger number of counties and states in the Country using their various experiences from failed policies in European countries. The Electoral College was created to give all the areas of America a more equal voice in the selection of a president. Instituting popular vote would change America from constitutional republic to a democracy, something we have avoided in this Country because it did not give equal representation to all people and all states. I urge all of you to consider that. History has served us well under this system. I do not see any reason to change it.

LINDA BUCKARDT (NevadansCAN):

I am opposed to A.B. 186 as referenced from my testimony ([Exhibit W](#)).

KAREN DZIERZEWSKI:

I am opposed to A.B. 186 as referenced from my testimony ([Exhibit X](#)).

JIM HINDLE:

I concur with Senator Pickard about the uniqueness of the election for the president and vice president. They are the only elected offices that appear on every ballot in every state. In U.S. history, only 5 of 45 presidential elections have elected a president by losing the popular vote. The U.S. Constitution specifically sets out that the President is not elected by popular vote but by the states. The chief executive of America must be elected by the majority of states in the Union. The constitution is elegant in how it determines this outcome while providing mechanisms to account for the population differences across states. In today's political environment, what could transpire if a president is sworn into office without the support of majority of the states? The scenarios are possibilities under the National Popular Vote. I concur with Senator Cancela's concerns on what would stress the social fabric of Nevada when the vote result is counter to the National Popular Vote. Our electors are forced to cast elector votes for a candidate that lost the vote in the State. The majority votes in the State will not count if this bill is enacted. I am opposed to A.B. 186.

JUANITA COX (Citizens in Action; Nevada Republican Assembly):

I am opposed to A.B. 186. I am the only elector of the six delegates in the room. It has been a process starting from caucus to the precincts. There was a court case that took two years and determined Los Angeles County had 1,005,000 voters related to fraud or illegal voters. We would not be represented by those voters. There were questions about voters in Texas and Florida that was nearly 60,000. There were lots of voters who were fraudulent in these states.

DIANE BARANOWSKI (President, Nevada Federation of Republican Women):

Nevada Federation of Republican Women is opposed to A.B. 186 as referenced from my testimony ([Exhibit Y](#)).

JAMES VERREES (Clark County):

I am opposed to A.B. 186 as referenced from my testimony ([Exhibit Z](#)).

DEBBIE MILLER-JOSEPH (Active Republican Women):

I opposed to A.B. 186. Assemblywoman Miller's presentation fails to include all the voters' voices. The presentation surpasses the majority of voters' voices due to the large, populous states of California and New York. Are you aware that there are five districts in New York and of these districts, four were won by a candidate from a popular vote? Those four districts in New York suppressed the voter voices in the entire U.S. All votes must be counted in each state, large or small instead of attempting to steal elections by changing the rules with popular vote, ballot harvesting, provisional ballots, mail-in ballots and same day registration as well as selling out American values to foreign countries. Several members should represent our values, Country and the American citizens.

JIM SALLEE:

I am opposed to A.B. 186. I agree with all the previous speakers who are opposed to the bill. I do have a few concerns and questions. The presenter said three Democrats and three Republicans put this bill together. I would like to know who they are and why this bill was put together. Who is going to benefit from this bill?

CHAIR OHRENSCHALL:

Some of the less populated states are equally divided between red and blue states.

TIM STOFFEL:

The people who would decide are in larger areas, according to the map on the wall. This is a relatively small percentage of the Country. If we had a real popular vote where everybody was counted equally, this would be fair because everyone had an equal vote. I am opposed to A.B. 186. It makes the whole system completely unfair. The only way to address this issue is to have a constitutional amendment. A lot of people out there would not be represented if the National Popular Vote is passed in Nevada, especially in the rural areas.

BOB RUSSO:

I am opposed to A.B. 186 as referenced from my testimony ([Exhibit AA](#)).

MARY PORTER:

I am opposed to A.B. 186 as referenced from my testimony ([Exhibit AB](#)).

TRUDY ABERDILLY (Southern Hills Republican Women's Club):
I am opposed to A.B. 186. I agree with all the speakers who oppose this bill.

JULIE HEREFORD (NevadansCAN):
NevadansCAN is opposed to A.B. 186. I have learned so much from today's meeting. The compact is not good for Nevada.

DARRYL CLEVELAND:
There have been a lot of great arguments against this bill. The Electoral College has worked for two centuries. The bill eliminates the founding fundamentals that the Nation was built upon and how the elections are decided. I am opposed to A.B. 186.

JOY TRUSHENSKI:
I am opposed to A.B. 186. This bill would make Nevadans' opinions of the election for the president and vice president meaningless.

JIM DEGRAFFENREID (Vice Chair, Nevada Republican Party):
The Nevada Republican Party is opposed to A.B. 186 as referenced from my testimony ([Exhibit AC](#)).

DOUG BUSSELMAN (Nevada Farm Bureau Federation):
Nevada Farm Bureau is opposed to A.B. 186. We are opposed to proposals to make popular vote on a national level for the determination of presidential elections. We agree with the *Nevada Revised Statutes* (NRS) 298.045 and the requirement for a pledge from Nevadans who are given the responsibility for casting the Electoral College votes. This required pledge honors and respects the outcome of the decisions made by Nevada voters and directs the Electoral College voters to cast their vote for the successful candidate with the majority of votes. We agree with NRS 298.065 which reinforces the outcome of majority votes cast by Nevada voters for president and vice president.

ANDREW QUINN:
I am opposed to A.B. 186. We do not live in a democracy; we live in a constitutional republic. We do not have Nationwide elections, instead we have Statewide elections. In 1968, there was a case, *Williams v. Virginia Board of Elections*, referencing section 627 that said:

Notwithstanding, it is difficult to equate the deprivations imposed by the unit rule with the denial of privileges outlawed by the one person, one-vote doctrine or banned by Constitutional mandates of protection. In the selection of electors the rule does not in any way denigrate the power of one citizen's ballot and heighten the influence of another's vote. Admittedly, once the electoral slate is chosen, it speaks only for the element with the largest number of votes. This in a sense is discrimination against the minority voters, but in a democratic society the majority must rule, unless the discrimination is invidious. No such evil has been made manifest here. Every citizen is offered equal suffrage and no deprivation of the franchise is suffered by anyone.

This case was affirmed by the U.S. Supreme Court. This same language was used in another case 50 years later. The courts have upheld the Electoral College system because it works and it normalizes the vote for the whole Country.

THERESA DEGRAFFENREID:

I am opposed to A.B. 186 for many reasons and agree with all the other speakers opposed to the bill. The National Popular Vote is the disposal of millions of dollars to travel the Country to get this legislation passed. Where is the money coming from? What is in it for the organization to pass this bill?

SHAWN MEEHAN (Guard the Constitution):

I am opposed to A.B. 186. Article 2, section 1 from the U.S. Constitution states, "Each state shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in Congress..." The word vote or voters is nowhere in section 2, not even until the Twelfth Amendment. I brought back soldiers from war and they were sworn to protect the U.S. Constitution. I just want to remind everyone why the Constitution is important to America.

JULIE MOORE:

I agree with all the speakers opposed to A.B. 186. My main concern is if this passes, our votes in Nevada will not matter if we are giving our six electoral votes to the larger states.

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CHARLENE YOUNG (Nevada Eagle Forum):

I am opposed to A.B. 186 and agree with all the testifiers against this bill.

ASSEMBLYMAN THOMPSON:

I am a proud native Nevadan. As a Legislator, I have a duty in pushing forward current and future voters to continue to vote and to vote when they are eligible to vote and most importantly, to make sure their vote counts. The testimony from the students resonates the most because they are the future and they want this bill to pass.

MR. FADEM:

It is the most important election in the world. Voters do care about this issue.

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CHAIR OHRENSCHALL:
I will adjourn this meeting at 7:05 p.m.

RESPECTFULLY SUBMITTED:

Janae Johnson,
Committee Secretary

APPROVED BY:

Senator James Ohrenschall, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	12		Attendance Roster
A.B. 186	C	5	Assemblyman Tyrone Thompson	Testimony
A.B. 186	D	6	Assemblywoman Brittney Miller	Presentation
A.B. 186	E	1	Chip Evans / Indivisible Northern Nevada	Testimony
A.B. 186	F	1	Laura Hale / Indivisible Northern Nevada	Testimony
A.B. 186	G	1	Mary Richardson / Indivisible Northern Nevada	Testimony
A.B. 186	H	1	Megan Ortiz / American Civil Liberties Union	ACLU Popular Vote
A.B. 186	I	1	Chris Daly / Nevada State Education Association	NSEA Support
A.B. 186	J	1	Sofia Alvarez	Testimony
A.B. 186	K	1	Disha Patel	Testimony
A.B. 186	L	2	Sarah Mahler / Indivisible Northern Nevada	Testimony
A.B. 186	M	2	Jean Melby-Mauer / Paradise Las Vegas Indivisible	Testimony
A.B. 186	N	2	Will Pregman / Battle Born Progress	Testimony
A.B. 186	O	2	Daryl Elliot	Testimony
A.B. 186	P	1	Laynette Evans / Indivisible Northern Nevada	Testimony
A.B. 186	Q	1	Kathy Williams / Indivisible Northern Nevada	Testimony
A.B. 186	R	1	Ruth Flack / Indivisible Northern Nevada	Testimony

A.B. 186	S	2	Gabrielle D'Ayr	Testimony
A.B. 186	T	1	Laura Dolajak	Testimony
A.B. 186	U	5	Janine Hansen / Nevada Families for Freedom	Testimony
A.B. 186	V	4	Lynn Chapman/ Nevada Eagle Forum	Testimony
A.B. 186	W	1	Linda Buckardt / NevadansCAN	Testimony
A.B. 186	X	2	Karen Dzierzewski	Testimony
A.B. 186	Y	1	Diane Baranowski / Nevada Federation of Republican Women	Testimony
A.B. 186	Z	1	James Verrees / Clark County	Testimony
A.B. 186	AA	1	Bob Russo	Testimony
A.B. 186	AB	2	Mary Porter	Testimony
A.B. 186	AC	1	Jim DeGraffenreid / Nevada Republican Party	Testimony