

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

**Eightieth Session
May 15, 2019**

The Senate Committee on Legislative Operations and Elections was called to order by Chair James Ohrenschall at 4:45 p.m. on Wednesday, May 15, 2019, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [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 Marcia Washington
Senator Heidi Seevers Gansert
Senator Keith F. Pickard

GUEST LEGISLATORS PRESENT:

Senator David R. Parks, Senatorial District No. 7
Senator James A. Settelmeyer, Senatorial District No. 17
Assemblywoman Sandra Jauregui, Assembly District No. 41
Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1

STAFF MEMBERS PRESENT:

Michael Stewart, Committee Policy Analyst
Kevin Powers, Committee Counsel
Rick Combs, Director
Carol Stonefield, Deputy Research Director
Janae Johnson, Committee Secretary

OTHERS PRESENT:

Michael Hillerby, Nevada State Board of Accountancy
Holly Welborn, American Civil Liberties Union of Nevada
Brooke Maylath, President, Transgender Allies Group

Senate Committee on Legislative Operations and Elections
May 15, 2019
Page 2

Isabel Youngs, Nevada Women's Lobby
Jared Busker, Children's Advocacy Alliance
Stephan Page, Human Rights Campaign
Kent Ervin, Nevada Faculty Alliance
Joe Casey, NARAL Pro-Choice Nevada
Elisa Cafferatar, Planned Parenthood Votes Nevada
Amanda Khan, Progressive Leadership Alliance of Nevada
Rex Reed, American Civil Liberties Union of Nevada
Janine Hansen, Nevada Families for Freedom
Lynn Chapman, Nevada Families for Freedom; Eagle Forum; Washoe County
Chair, Independent American Party
William Tarbell
Bob Russo
John J. Piro, Clark County Public Defender's Office
Kendra Bertschy, Deputy Public Defender, Washoe County
David Boire, Children's Advocacy Alliance
Jagada Chambers
Susie Miller, Deputy Administrator for Residential Services, Division of Child and
Family Services, Department of Health and Human Services
Renee Baker, Warden, Lovelock Correctional Center, Department of Corrections

CHAIR OHRENSCHALL:

I will open the meeting in work session on Assembly Bill (A.B.) 50.

ASSEMBLY BILL 50 (1st Reprint): Revises provisions governing the dates for
certain city elections. (BDR 24-473)

MICHAEL STEWART (Policy Analyst):

Assembly Bill 50 was heard on May 8, as referenced from the work session
document ([Exhibit C](#)).

SENATOR PICKARD:

In terms of the judicial officers, those are based in statute and not in the Nevada
Constitution.

KEVIN POWERS (Counsel):

The municipal courts which are being affected by the Legislature here—they are
provided in the Constitution but only directing the Legislature to provide by law
for the municipal courts. The Constitution specifically allows the Legislature to

establish the terms of office for the municipal courts versus other judicial offices which are set in the Constitution at six years.

SENATOR PICKARD:

The district courts are already elected on even-numbered years. We are not changing their length of terms but adjusting the length of terms for the municipal judges. We are doing the same thing for the cities, but we have the ability to amend their charters. There are other reasons I cannot support this bill.

SENATOR CANCELA MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 50.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR PICKARD VOTED NO.)

* * * * *

MR. STEWART:

Assembly Bill 274 was heard on May 13, as referenced from the work session document ([Exhibit D](#)).

ASSEMBLY BILL 274 (1st Reprint): Revises provisions relating to governmental administration. (BDR 18-86)

SENATOR PICKARD:

My question involved the definition of the official authority or influence. In reconsidering and after reviewing the bill, I understand the content, but I do have reservations.

MR. POWERS:

The entire section 2.5 is triggered by a complaint by a State employee trying to disclose improper governmental action, essentially a whistleblower disclosure, whistleblower complaint. That is the triggering mechanism for the entire bill. First, there must be a whistleblower complaint and then another State employee—or at the local government level, a local government employee—must take retaliatory action against the person who filed the whistleblower complaint. Someone who is in a position to take personal action against the retaliating employee would then have a duty to use their official authority to

protect the whistleblower and take remedial action against the employee who is engaging in the retaliation. That triggers the duty in the bill; the person with the duty has to be able to exercise official authority or influence, and that would be taking personnel action. If all of those conditions are in place, that is when the duty falls on the supervisory employee and only if those circumstances take place. First, there must be a whistleblower complaint; second, another employee under the supervision of the supervising employee must take retaliatory action. Then the supervising employee has the duty to remedy that retaliatory action and protect the employee who filed the whistleblower complaint.

SENATOR PICKARD:

When I first read this bill, I thought we were talking about the influence piece and employees. This bill is broad and talking about those who are in supervisory positions; we have the opportunity to use this language, and we are not using this language.

SENATOR WASHINGTON:

I thought there are already existing laws for regulations on most jobs. If someone decides to retaliate because you said something, you have the right to go and file with the Equal Employment Opportunity Commission (EEOC) or Nevada Equal Rights Commission (NERC). But a couple of different processes already exist. Employees have options to file a grievance if they were being retaliated against. This bill seems to be a duplication.

CHAIR OHRENSCHALL:

Assemblywoman Dina Neal is trying to tighten up confidentiality for complaints that go to NERC and to make sure that information is confidential and stays confidential. This information stays with the bare minimum of employees of NERC who need to handle it. The other sections of the bill are trying to cure what is a toxic work environment.

SENATOR SEEVERS GANSERT:

I thought there was a statute or requirement that anything received from NERC as far as a complaint is confidential. The part put around the Department of Employment, Training and Rehabilitation (DETR) opened it up to share information. Is there a statute that requires everything that goes to NERC remain confidential, or do we need a clause?

MR. POWERS:

If you look at section 1 of the bill, deals with confidentially statute that applies to NERC. The way the statute is set up is that subsection 1 of the statute states the general rule that any information gathered by NERC in a course of its investigation of an alleged unlawful, discriminatory practice is confidential. That is the general rule. The rest of the statute, however, has a list of exceptions to the general rule. One of the existing exceptions is that NERC can disclose the information that it gathers to any governmental entity as appropriate or necessary to carry out its duties. So right now, the Nevada Equal Rights Commission can disclose that information even though it is confidential to any governmental entity. What section 1 of A.B. 274 does is narrow the exception that allows NERC to give the confidential information to another governmental entity.

In the new subsection 5, it provides that the information NERC acquires during its discriminatory investigation must be limited only to such staff of the NERC as is necessary to carry out the duties of NERC relating to the complaint, and such staff shall not disclose that information to other officers and employees of DETR. The reason for this is that the Nevada Equal Rights Commission is a subcomponent of DETR; so under the existing exception, NERC could provide the information to any other office or employee in DETR. Now with this bill, they could not do that. They would have to limit the information just to the staff of NERC, and not unnecessarily provide it to other officers and employees that are in the broader agency of DETR.

To address Senator Washington's question, there are different forms of retaliation in the workplace and therefore, there are different remedies in place for those type of retaliation. For example, Senator Washington, you mentioned going to EEOC or NERC. That would be going there because the retaliatory action was taken against the employee because they filed some sort of complaint involving discrimination whether it be racial discrimination, sexual discrimination or some other unlawful discriminatory practice.

The statutes we are dealing with in A.B. 274 deal with whistleblower complaints that do not involve discrimination; they can involve any type of improper governmental action. For example, if a State employee claims that one of their supervisors is unlawfully embezzling state money, they could file a whistleblower complaint. This statute would provide additional protections in the bill to that type of whistleblower, so that if they are retaliated against for

filing such a complaint, they have additional remedies in the bill. That type of whistleblower would not be able to get protection from the EEOC or NERC because it did not involve an unlawful, discriminatory practice, but they were still disclosing unlawful activity in the form of theft.

SENATOR CANCELA MOVED TO DO PASS A.B. 274.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MR. STEWART:

Assembly Bill 448 was heard on May 1, as referenced from the work session document ([Exhibit E](#)).

ASSEMBLY BILL 448 (1st Reprint): Revises provisions governing the procedure for filling certain vacancies in office. (BDR 17-950)

SENATOR CANCELA MOVED TO DO PASS A.B. 448.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MR. STEWART:

Assembly Bill 450 was heard on May 1, as referenced from the work session document ([Exhibit F](#)).

ASSEMBLY BILL 450: Revises provisions relating to the apportionment of districts for certain offices. (BDR 17-1105)

SENATOR CANCELA MOVED WITHOUT RECOMMENDATION ON A.B. 450.

SENATOR WASHINGTON SECONDED THE MOTION

THE MOTION CARRIED. (SENATORS SEEVERS GANSERT AND PICKARD
VOTED NO.)

* * * * *

MR. STEWART:

Assembly Joint Resolution (A.J.R.) 6 was heard on May 1, as referenced from
the work session document ([Exhibit G](#)).

ASSEMBLY JOINT RESOLUTION 6 (1st Reprint): Urges Congress to prevent the
United States Census Bureau from adding a citizenship question to the
2020 decennial census. (BDR R-279)

SENATOR CANCELA MOVED WITHOUT RECOMMENDATION ON
A.J.R. 6.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS SEEVERS GANSERT AND PICKARD
VOTED NO.)

* * * * *

MR. STEWART:

Assembly Bill 186 was heard on April 24, from Assemblyman Tyrone Thompson
as referenced from the work session document ([Exhibit H](#)).

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

SENATOR CANCELA MOVED TO DO PASS A.B. 186.

CHAIR OHRENSCHALL SECONDED THE MOTION.

SENATOR CANCELA:

I am going to reserve my right to change my vote on the Floor.

THE MOTION CARRIED. (SENATORS SEEVERS GANSERT AND PICKARD
VOTED NO.)

* * * * *

CHAIR OHRENSCHALL:

I 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 professional and occupational licensing boards. (BDR R-520)

SENATOR JAMES A. SETTELMEYER (Senatorial District No. 17):

In the 2017-2018 Interim, I was a member of the Sunset Subcommittee of the Legislative Commission. This resolution is a recommendation from the Sunset Subcommittee for an interim committee in the 2019-2020 Interim. In the 2017-2018 Interim, the Subcommittee focused only on those licensing boards that had not previously been considered by Sunset, reviewing a total of 23 licensing boards.

As a Subcommittee, we have come to realize issues with the boards that the Legislature needs to be aware of and may wish to address. Let me be clear that not every board has all of these problems, but we encountered them often enough that we thought we should report them to you.

Some examples of our concerns include: no statutory qualifications for hearing officers, but *Nevada Revised Statutes* (NRS) permits these boards to delegate to hearing officers their authority to hear and decide complaints, including levying fines. I might add that there are also no statutory requirements for executive directors; NRS does not require board members to get any kind of training to serve as board members. Some board members appeared to have no idea of how to manage the business operations of the board or even that they must have a budget and exercise basic oversight of the board revenues. Many provisions are not uniform from board to board. For example, some staff are State employees, and some are contractors. Some deposit revenues from fines in the State Treasury, while others keep these revenues.

Some boards enter into contracts without submitting them to the State Board of Examiners. They claim that because they are self-funded, they may not have to do that. There is much duplication of expenditures for office operations, legal advice, lobbying and information technology, which is a waste of public funds. The licensing boards are not in the Executive Budget. They were removed from

chapter 353, State Financial Administration, of NRS in 2001. The boards are self-funded, but little attention has been paid to their finances for years. It seems that self-funded has become self-supervising. As a result, we have seen: unprocessed licensing applications; embezzlement and fraud; extravagant travel and purchases; fees higher than our neighboring states; and salaries for executive directors that are higher than the salaries of department heads who supervise hundreds of employees. In fact, a few of the executive directors are paid salaries higher than what is paid to the Nevada Governor.

This is a suggestion that you could assign the study to the Sunset Subcommittee during the Interim. By this time in Session, a number of bills have been amended to become interim studies, mostly to keep an idea alive. The Legislature is faced with many more requests for studies than it can implement. For that reason, I suggest taking S.C.R. 6 and making it a study by the Sunset Subcommittee to review all boards, commissions, committees, councils and similar entities. We have 200 entities total. We have done the boards, but we have a lot of entities to do.

To take advantage of the knowledge the Subcommittee has already obtained, you might consider an amendment to S.C.R. 6, directing Sunset to continue its review of the licensing boards in the 2019-2020 Interim. This would be in place of a new one-shot interim committee to review the operations of the licensing boards. In the 2017-2018 Interim, the Subcommittee directed most of the licensing boards to change some practices and report back in the next Interim anyway, so Sunset could just pick up where it left off.

I would just ask you to keep in mind these boards have been created by the Legislature, all of their powers are derived from the Legislature, and all of the money they collect and spend is based on the grant of legislative authority. It is time the Legislature takes a good hard look at the licensing boards. We owe it to the professionals who seek to be licensed and to the public who trusts the services they provide.

SENATOR PICKARD:

Do we need to amend this since the Sunset Subcommittee is a subcommittee of the Legislative Commission? Do we need an amendment to direct it, or is it sufficient to leave it in the Legislative Commission and let them have the Sunset Subcommittee do the study?

MR. POWERS:

The way that S.C.R. 6 is currently drafted, it creates a separate Subcommittee composed of three members of the Senate and three members of the Assembly. The bill would need to be amended, whereas the resolution would direct that the study be directed by the Legislative Commission to the Sunset Subcommittee. So that amendment would not need to occur.

SENATOR PICKARD:

The Sunset Subcommittee is already tasked at looking at these things.

SENATOR CANCELA:

I am hopeful that this study ends up getting all the way through because the dysfunction that is allowed in occupational licensing boards is bizarre. They are fiefdoms of power that do not always serve the interest of their members. If S.C.R. 6 is chosen as an Interim study, would it get the five bill draft requests (BDRs) allocated to the study?

MR. POWERS:

That is correct. An interim study gets five BDRs for the Interim. However, a statutory committee of the Legislature that operates during the Interim gets ten BDRs. Unless there is limitation on the Sunset Subcommittee then, I have to investigate.

SENATOR SETTELMAYER:

I believe the Sunset Subcommittee does not, I believe we bring them individually ourselves. That is why we are here to request statutes from other individuals.

SENATOR CANCELA:

Does Sunset get any BDRs?

CAROL STONEFIELD (Deputy Research Director):

I have been the committee staff person to the Sunset Subcommittee for the last several Interims. The statute is in NRS 232B. The Sunset Subcommittee does not get any BDRs. It must make its report to the Legislative Commission, which usually occurs in October, and make its suggestions to the Legislative Commission for what it thinks should be a BDR for the next Session. The Legislative Commission will accept those recommendations and make a recommendation to the Legal Division to draft those BDRs on behalf of the Sunset Subcommittee. If you look at the top on the first page of the bill, it is

requested by the Legislative Commission on behalf of the Sunset Subcommittee. That is in statute, and it has been that way since the implementation of the Sunset Subcommittee in 2011.

SENATOR CANCELA:

Is it possible to amend S.C.R. 6 to give BDRs to the study? Is this not possible based on the fact that it lives within the Sunset Subcommittee?

MR. POWERS:

Senate Concurrent Resolution 6 cannot be used to amend the existing statutes of the Sunset Subcommittee. However, the Senate concurrent resolution could direct the Legislative Commission to consider BDRs from the Sunset Subcommittee on this particular subject because the Legislature through a Senate or Assembly concurrent resolution can direct the Legislative Commission to take certain action.

SENATOR SETTELMAYER:

We felt it was important to report back to the Commission since the Commission has the power to do BDRs. Most of the time the Commission has agreed with it. When the Legislative Commission has chosen to not bring forth an issue because it did not think there was enough support, in every instance I have seen a member of the Sunset Subcommittee pick up the issue, and in every one of those cases, it has passed. I did one this year pertaining to all boards and commissions being able to accept credit cards. Sometimes, this is incorporated in other bills, or the Senate Chair of Commerce and Labor will pick up ideas not picked by the Sunset Subcommittee. It is time to do a holistic view of the concept of Title 54 of NRS for the boards rather than a piecemeal approach one by one. Now that the Subcommittee has gone through the NRS 54, we still have other boards to review. We need overarching laws on all of them, and that is what S.C.R. 6 does.

SENATOR SEEVERS GANSERT:

It sounds like we could potentially amend this to direct the Legislative Subcommittee to do this work, instead of leaving it in the queue to be selected or not selected for an interim study. But we would have to amend it, and we could make a recommendation for the Legislative Commission to consider bill drafts proposed by the legislative subcommittee based on this study.

SENATOR SETTELMAYER:

I want to make sure this concept goes on, looking at a number of things that are now going to be studied. Some staff members made a recommendation to have the Sunset Subcommittee assume this task. It is the right thing to do.

MICHAEL HILLERBY (Nevada State Board of Accountancy):

I am neutral to S.C.R. 6. Our concern is the preamble language gives the impression that all boards have some significant problems. We acknowledge some boards have had problems over the years. Like all State agencies, all the boards are staffed by people. Human beings make mistakes from time to time and do their best to correct those mistakes. Just a couple of things to point out on page 1 of the bill: the third and fourth "Whereas" paragraphs talk about audits for the boards and commissions. Those are already required in NRS 218G.400. Failure to do that is considered nonfeasance. That State employee or officer forfeits his or her job and is not eligible for employment with the State for two years. We have those requirements, and most boards are doing that.

There are a variety of requirements on boards. If those boards are not doing that, there is mechanism to hold them accountable. The Sunset Subcommittee has not been shy about doing that. As a subcommittee of the Legislative Commission, it has subpoena power and can bring members forward. A good number of the boards are trying to do the right thing in protecting the public and looking out for public safety while following the State laws. The Board of Accountancy has a ten-page document that summarizes various reporting to the Legislative and Executive Branch agencies it is required to do—everything from audits, reasons of denial, inventory, current salaries and agenda postings.

SENATOR PICKARD:

The third whereas paragraph in S.C.R. 6 reads there is an absence of statutory requirement for public access. My recollection is these audits are not generally open. The summaries are open to public access as they are published by the Legislative Counsel Bureau (LCB). My understanding is the audits themselves are not, is that correct?

MR. HILLERBY:

Our understanding of the law is those would be considered public records and accessible. They are presented to our Board when they are done. Because of the board size, that is done annually in public meetings. A great deal of

information was available through the Sunset Subcommittee, and the Legislative Auditor was involved. Hopefully, every board is behaving the same way.

SENATOR SETTELMAYER:

I understand the concern. Many fantastic boards are doing a wonderful job. Unfortunately, some bad apples are spoiling it for the rest of the lot, and we need to take a more holistic look at them. The Sunset Subcommittee is slated to look at all boards, commissions, committees, counsels and similar entities, and it is only halfway through.

CHAIR OHRENSCHALL:

I will open the meeting on Assembly Joint Resolution 2 of the 79th Session.

ASSEMBLY JOINT RESOLUTION 2 OF THE 79TH SESSION: Proposes to amend the Nevada Constitution to require the recognition of all marriages regardless of gender. (BDR C-690)

ASSEMBLYWOMAN SANDRA JAUREGUI (Assembly District No. 41):

I am here to present A.J.R. 2 of the 79th Session as referenced from my testimony ([Exhibit I](#)).

SENATOR DAVID R. PARKS (Senatorial District No. 7):

Assembly Joint Resolution 2 of the 79th Session proposes to amend the Nevada Constitution as referenced from my testimony ([Exhibit J](#)).

HOLLY WELBORN (American Civil Liberties Union of Nevada):

I typically shy away from sharing personal stories in order to maintain a high level of professionalism, but today I am compelled to break that rule. I come full circle on an issue that I have advocated for almost two decades. I entered the crazy world of political advocacy in 2000 when the protection of marriage initiative as being considered. I was a high school student and a volunteer coordinator on "No on 2" the campaign to oppose the discriminatory definition of marriage amendment. It was the first time a political initiative affected me so personally and profoundly. Question No. 2 made me question my faith in church, lawmakers, teachers, friends and family.

It was a devastating loss but it lit a flame and empowered the LGBTQ community. Through coming out and sharing the stories of so many families, the LGBTQ community changed the discriminatory narrative against people who

simply wanted to be treated equally under the law. The hearts and minds of lawmakers, teachers, friends and families have changed since 2002. Americans overwhelmingly support marriage equality, and it is the law of the land. The U.S. Supreme Court acknowledged this shift in *Obergefell v. Hodges*, declaring:

The nature of injustice is that we may not always see it in our own times. The generations that wrote and ratified the Bill of Rights and the Fourteenth Amendment did not presume to know the extent of freedom in all of its dimensions, and so they entrusted to future generations a charter protecting the right of all persons to enjoy liberty as we learn its meaning. When new insight reveals discord between the Constitution's central protections and a received legal stricture, a claim to liberty must be addressed.

The lessons of our constitutional history are clear; inclusion strengthens, rather than weakens, our most important institutions. When we integrated our schools, education improved. When we opened our juries to women, our democracy became more vital. When we allowed lesbian and gay soldiers to serve openly in uniform, it enhanced unit cohesion. When same-sex couples are married, just as when opposite sex couples are married, they serve as models of loving commitment to all.

This bill not only gives us an opportunity to remove unconstitutional discriminatory language from the Nevada Constitution, but it gives our teachers, families, lawmakers and friends the opportunity to say, "I am sorry, and you deserve the same rights that I have." I support A.J.R. 2 of the 79th Session on behalf of both the American Civil Liberties Union of Nevada and the Institute for a Progressive Nevada.

BROOKE MAYLATH (President, Transgender Allies Group):

I support A.J.R. 2 of the 79th Session. The original document serves as the foundation of this Country and talks about life, liberty and the pursuit of happiness. That is the foundation and the traditional values of this Country. Interference with those rights and the ability to be happy, have liberty and the rights to marry the person you love is what we fought a revolution over. In the U.S. Constitution, we have separation of church and state, they cannot be used to place one version of Christianity above anything else, including atheism. Pushing an obsolete, exclusionary language in the Constitution is a vulgar example of protection of privilege, which is exactly the principle that we did

fight over in 1776. Please vote for A.J.R. 2 of the 79th Session if you truly believe the principle of life, liberty and the pursuit of happiness is what birthed this Nation. Do not exclude anyone from that ability.

ISABEL YOUNGS (Nevada Women's Lobby):
I support A.J.R. 2 of the 79th Session.

JARED BUSKER (Children's Advocacy Alliance):
We support A.J.R. 2 of the 79th Session. The American Academy of Pediatrics released a report that said, "Marriage equality helps protect children's rights to maintain relationships with both parents, eligibility for health benefits and financial stability." This bill is helpful for our children and we are in full support.

STEPHAN PAGE (Human Rights Campaign):
I support A.J.R. 2 of the 79th Session as referenced from my testimony ([Exhibit K](#)).

KENT ERVIN (Nevada Faculty Alliance):
The Nevada Faculty Alliance supports A.J.R. 2 of the 79th Session as referenced from my testimony ([Exhibit L](#)).

JOE CASEY (NARAL Pro-Choice of Nevada):
On behalf of our members, we support A.J.R. 2 of the 79th Session. We believe that marriage is an important milestone in terms of family planning, and it should be open to marriages of all genders.

ELISA CAFFERATA (Planned Parenthood Votes Nevada):
We have long supported A.J.R. 2 of the 79th Session. Because it is the right thing to do. It is an important avenue to access for health care.

AMANDA KHAN (Progressive Leadership Alliance of Nevada):
We support A.J.R. 2 of the 79th Session as referenced from my testimony ([Exhibit M](#)).

REX REED (American Civil Liberties Union of Nevada):
I support A.J.R. 2 of the 79th Session as referenced from my testimony ([Exhibit N](#)).

JANINE HANSEN (Nevada Families for Freedom):

I am opposed to A.J.R. 2 of the 79th Session. The U.S. Constitution says nothing about separation of church and state. The Nevada Constitution in Article 1, section 4 states, "The free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed in this State ... but the liberty of conscience hereby secured." Last Session, we were discussing this issue in the Assembly. Legislative Counsel Brenda Erdoes was asked a question about which constitutional amendment will take precedent: A.J.R. 2 of the 79th Session, the gender marriage Constitutional Amendment, or the Nevada constitutional Declaration of Rights in Article 1 protecting religious liberty? Ms. Erdoes said in the committee that the newest constitutional amendment, gender marriage, would take precedent over religious liberty. The Nevada Constitution Ordinance provides "That perfect toleration of religious sentiment shall be secured, and no inhabitant of said state shall ever be molested, in person or property, on account of his or her mode of religious worship." The Preamble of the Nevada Constitution states: "We the people of the State of Nevada Grateful to Almighty God for our freedom in order to secure its blessings, insure domestic tranquility, and form a more perfect Government, do establish this Constitution."

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

I am opposed to A.J.R. 2 of the 79th Session and speaking to lines 10 through 13, Hugh Whelchel wrote:

This current assault on religious liberty is a far cry from the ideas put forth by the Founders. The Founders saw "religious liberty" as one of the bedrock principles of the United States. It was James Madison who suggested the term "religious liberty" to George Mason, chief architect of the Virginia Declaration of Rights in 1776. In the first draft, Mason used the term "religious tolerance" ... was understood as permission given by the state to practice religion. The problem with religious tolerance was that what the state gave, it could take back. Madison argued that religious liberty was a natural and unalienable right. It was possessed equally by all citizens, and must be beyond the reach of civil magistrates. This was a revolutionary idea designed to protect and promote a vital role for religion in public life. The term "religious liberty" was adopted by the other states over the next ten years. Eventually it

was written into the first amendment of the United States Constitution, as one of the cornerstones of our Bill of Rights.

We have had problems in the last number of years with a lot of different people being sued for this, that and the other. In Colorado, Jack Phillips, a cake shop owner, was sued. The Colorado Civil Rights Commission was dismissing its most recent charges against Phillips "in the wake of newly discovered evidence of the state's ongoing hostility toward religious freedom," reported Alliance Defending Freedom (ADF), the legal advocacy group that has been defending Phillips throughout his more than six-year battle with the state over his First Amendment-guaranteed religious freedoms. The U.S. Supreme Court, in June 2018, ruled 7 to 2 in favor of Phillips, reversing the state's penalties against him. Kristen Waggoner, ADF senior vice president of U.S. Legal Division, said, "Tolerance and respect for good-faith differences of opinion are essential in a diverse society like ours. They enable us to peacefully coexist with each other."

We do have to be careful and that is what we are concerned with on A.J.R. 2 of the 79th Session.

WILLIAM TARBELL:

I am opposed to A.J.R. 2 of the 79th Session. Like an enormous tsunami, demographic disaster is rushing straight at Western countries with Nevada included. Russia and other European countries are paying couples to have more children. In the light of this scientifically demonstrated fact, this is no time to move away from binary marriage between a man and a woman. The claim that marriage between persons of any gender is an established law because of the U.S. Supreme Court ruling and other subsequent law is not a fact given historical dynamics. Supreme Court decisions have proven at times to be temporary and not in keeping with foundational principles of human community. Since marriage between a man and a woman is a foundational principle of human community, A.J.R. 2 of the 79th Session if passed, and any law like it will eventually be discarded. In Nevada law, gender diversity and expression is listed and involved. I do not remember seeing a specific definition in Nevada law for what gender is. I presume the way A.J.R. 2 of the 79th Session reads, any one of more than 100 gender states might be involved in executing the law.

BOB RUSSO:

I am opposed to A.J.R. 2 of the 79th Session as referenced from my testimony ([Exhibit O](#)).

Senate Committee on Legislative Operations and Elections
May 15, 2019
Page 18

ASSEMBLYWOMAN JAUREGUI:

We have the opportunity this Session to show every Nevadan, no matter who they are, that we support you. We support equality, and we support love. Former Assemblyman James W. Healey quoted Justice Anthony Kennedy who said, "No union is more profound than marriage for it embodies the highest ideals of love, fidelity, devotion, sacrifice and family. [Gay and lesbian couples] ask for equal dignity in the eyes of the law. The Constitution grants them that right."

CHAIR OHRENSCHALL:

I will open the meeting on A.B. 449.

ASSEMBLY BILL 449 (1st Reprint): Directs the Legislative Committee on Child Welfare and Juvenile Justice to conduct a study relating to juvenile detention in this State. (BDR S-450)

ASSEMBLYWOMAN DANIELE MONROE-MORENO (Assembly District No. 1):

I am presenting A.B. 449 which directs the Legislative Committee on Child Welfare and Juvenile Justice.

CHAIR OHRENSCHALL:

I will briefly close the hearing on A.B. 449.

SENATOR CANCELA MOVED TO DO PASS A.J.R. 2 OF THE 79TH SESSION.

SENATOR SEEVERS GANSERT SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR WASHINGTON VOTED NO.)

* * * * *

CHAIR OHRENSCHALL:

I will now reopen the hearing on A.B. 449.

ASSEMBLYWOMAN MONROE-MORENO:

Assembly Bill 449 authorizes the Legislative Committee on Child Welfare and Juvenile Justice to conduct a study of the Nevada juvenile detention system during the upcoming Interim. The bill is pretty straightforward. It simply requires

a study to be conducted, setting forth the issues to be examined and reporting findings along with any proposed legislation to the Legislature prior to the 2021 Session.

The purpose of the study is to assess the viability of taking a regional approach to housing juveniles across the State; to review the capacity of current facilities and institutions for housing juveniles; and to review levels of family and community currently provided by the State for juveniles and the feasibility of implementing programs to improve and increase engagement; and to analyze the current offering of educational, health and wellness programming for juveniles across the State.

It is true that the Child Welfare and Juvenile Justice Committee could simply choose to do the work without this mandate provided by the bill. However, based on the work we did this last Interim and the information we gathered on this subject, the Committee members believe it appropriate to ensure this study be done, regardless of the makeup or leadership of the Committee next Interim.

MS. WELBORN:

I am here to help present A.B. 449. I submitted the ACLU's Youth Confinement in Nevada report, and it is available for review ([Exhibit P](#)). This is a partnership between the American Civil Liberties Union of Nevada (ACLU) and the Department of Corrections (NDOC). It is not every day that the ACLU is at the same table as the NDOC. I think it speaks to the profound importance of the legislation before you. This bill is the culmination of months of work throughout the last Interim Session. We worked with the NDOC, State and local juvenile justice administrators, Clark County Detention Center and Deputy District Attorney Brigid Duffy to come to an agreement on the next steps that will address what the ACLU of Nevada believes is approaching a crisis when it comes to housing youth tried as adults in Nevada.

In order to give context to our proposed study, it is important to understand some history around this issue. In Nevada, a child can be transferred to the adult criminal justice system in two ways, either through "direct file," which is an automatic transfer of children aged 16 and older based on the offense, or a certification process where a judge weighs factors and determines that the child should be tried as an adult. Once certified, the child is usually transferred to an adult correctional institution unless the local juvenile institution chooses to hold

the child until sentencing. After sentencing, the child is sent to the NDOC's Lovelock Correctional Center.

For years, the ACLU has advocated to end the practice of moving children to adult correctional institutions for several reasons. Recidivism: These young people are 34 percent more likely to commit crimes than youth retained in juvenile systems. Mental and Emotional Health: Youth are 19 times more likely to commit suicide in jail than youth in the general population and 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility. Diminished Access to Services: In a jail and prison survey, 40 percent of jails provided no educational services at all. Only 11 percent provided special educational services, and just 7 percent provided vocational training.

When we transfer children to adult facilities, specific laws like the Prison Rape Elimination Act (PREA) that tie the hands of the NDOC in meeting the needs of young people. When children are colocated in facilities with adults, there has to be sight-and-sound separation between the youth and adult population or higher staff-to-juvenile ratios. Currently in Nevada due to budget constraints, the NDOC is unable to meet those ratios; therefore, the kids are living in an isolated unit within the Lovelock Correctional Center. It places a lot of restraints on the type of programing a child can engage in. When looking at local jails, as part of our project, we went to over ten facilities in ten different counties and looked at what patterns and practices these facilities were engaged in.

When a child is sent to a local jail, the practice due to PREA is to place that child in solitary confinement. A lot of young people may be the one and only child sent to the adult system. That child is placed in solitary where he or she has no programing and little access to outdoor recreation. Young women are being pushed and transferred into the adult system. The Florence McClure Women's Correctional Center has no accommodations for young women. There are agreements between local juvenile facilities and the NDOC for housing the young women, but some alternatives place the child in a portable unit on the campus of Florence McClure, basically having that child in solitary for a number of years before reaching the age of majority. This is an extreme problem in Nevada.

We embarked on this project for our Youth Confinement in Nevada report and concluded that adult institutions are unsuitable for youth. Juvenile facilities are appropriate, but institutions have legitimate concerns with long-term

programming that can present problems. Youth have specific needs that cannot be addressed in adult facilities, but in order to successfully place them in facilities that meet their needs, we need a thorough investigation of our options. There needs to be a comprehensive study of placement, bed, space and programming to move toward lasting policy solutions. A study needs to be done to determine how Nevada can make the changes necessary to meet the needs of the vulnerable adolescent population.

CHAIR OHRENSCHALL:

I have visited children at juvenile detention centers in Clark County. It is difficult to make sure the experience of being in custody does not lead to more problems for the child later in their future.

JOHN J. PIRO (Clark County Public Defender's Office):

We support A.B. 449. The problems that do not get solved become problems in the adult world. We need to conduct studies on these issues and come up with better solutions.

KENDRA BERTSCHY (Deputy Public Defender, Washoe County):

We support A.B. 449. I had the opportunity to visit Jan Evans Juvenile Justice Center in Washoe County. These are children, and we do need to provide them with information. It is important to make sure they are receiving education even though they are locked up for something bad. When they serve their sentence, we want to make sure we provide them with skills so they do not recidivate.

DAVID BOIRE (Children's Advocacy Alliance):

I am a social worker and brought students majoring in social work to the Legislature. Assembly Bill 449 brought censes among the students as part of the community policy practice. The passing of this bill and authorization of this study would allow many people who work in juvenile justice the ability to look at current practices. This would allow us to interpret current shortfalls and anticipate future ones. As Nevadans, we need to do more to ensure that when youth find themselves in the justice system, they do not slip through the cracks and become forgotten; rather, they receive rehabilitation services needed to ensure their future potential and growth have been properly fostered. Without the passage of A.B. 449, people like myself and others who work with disadvantaged youth will lack the required data needed to make informed decisions, on how best to help them thrive while returning to society. Until we take proactive steps like this bill, current and future Nevadan youth will suffer.

MR. BUSKER:

The Children's Advocacy Alliance supports A.B. 449. As we believe every single child deserves a correct placement and not be in isolation, this bill is beneficial to all Nevadans.

JAGADA CHAMBERS:

I support A.B. 449. The reality for kids in Summit View Youth Center is 89 percent of the youth in this center are of color. When referring to Lovelock, 18 of the 20 kids are black. In Clark County, an incident dealt with students of color. The study is great, and there is genuine concern when it comes to youth in the justice system. When you look at section 2, subsection 7 talks about the data. This could be more specific when looking at criminal cases.

MS. REED:

I support A.B. 449 as referenced from my testimony ([Exhibit Q](#)).

SUSIE MILLER (Deputy Administrator for Residential Services, Division of Child and Family Services, Department of Health and Human Services):

I am here to testify neutral to A.B. 449. The bill takes a closer look at the quality and quantity of services provided to juvenile justice youth in Nevada. It will be exploring the factors that contribute to the certification or the determination that youth will be tried as adults and housed alongside adults. The bill provides for the examination of how various states service this population and will allow for options to be explored for Nevada. Ultimately, it is the hope that the results of the study contribute to safe and effective programming being provided to our youth and their families.

RENEE BAKER (Warden, Lovelock Correctional Center, Department of Corrections):

I am here to testify neutral to A.B. 449. I would like to go over some concerns and challenges that we face at Lovelock. The Prison Rape Elimination Act has tied our hands with a lot of things as separating them from sight and sound. To do this effectively takes staffing; there are 4 officers for 13 juveniles. The juveniles now go to the education department and interact with the adults, but they need supervision which is allowed through PREA. They can be within sight and sound if there is direct supervision. This requires two officers so the inmates can be separated in two classrooms to receive their education. The current housing unit can accommodate 20 inmates and, currently, we have 13 inmates. But I have seen over 20 in the past 3 years several times. If any inmates for any type of safety or security reasons need to be separated from

the other individuals, I cannot keep them in the same housing unit. They would have to be placed somewhere else in the facility which requires officers to keep that supervision with the adult offenders. I do not have another area to keep them separate from each other. The goal for all of us is to provide the best services to juveniles so they receive the skills to be better and successful upon their release. The Department of Corrections has been transparent and has worked with the ACLU in this study.

CHAIR OHRENSCHALL:

When the children turn 18 years old, do they stay at Lovelock or go to other prisons?

MS. BAKER:

Typically, they would go to a different facility. But it just depends on what we feel the need is. We have had success with several of our juveniles going into the Structured Living Program at the Lovelock Correctional Center. But some of them do transfer to different facilities, based on classification on an individual bases. We want what is best for the juvenile.

ASSEMBLYWOMAN DANIELE MONROE-MORENO:

The officers who work in our correctional facilities are people who truly care about the job they are doing. I spent almost 30 years in correctional law enforcement. This study will help the children but also will help facilities, officers and the administration. The study will give them the tools they need to do a much better job. We hope this bill makes a better place for those who work there to have tools they need to do a better job and does better for the children who are in those facilities.

CHAIR OHRENSCHALL:

I will open the hearing on A.B. 488.

ASSEMBLY BILL 488: Revises requirement to submit certain reports to the Legislature. (BDR 16-1257)

RICK COMBS (Director):

I am presenting A.B. 488. The bill carries out the duties of the Legislative Commission under NRS 218D.380, which directs the Commission to review the list of reports to the Legislature that have been in existence for four or more years and to consider whether the reports should be repealed, revised or

continued. The Commission also takes into consideration the costs and benefits of the reports and whether the information is available from other sources. The genesis of this biennial review goes back to the 2013 Session when two bills bound together to look at the hundreds of reports filed with our office each year. The Legislature passed A.B. No. 464 of the 79th Session to continue the process of eliminating some of the older reports that are required. The bill before you today is a measure that will save agencies time and money by getting rid of reports no longer needed.

I am not here to testify in favor or against the measure. I am merely here to indicate to the Committee why the bill was requested by the Legislative Commission and briefly go through the bill. Section 1 eliminates the requirement of the Division of Child and Family Services to submit a report on the status and evaluation of the effectiveness of assistance grants to domestic violence victims. The requirement was enacted in 1981. The program is well established now, and the Division would continue to receive information from grantees that could be requested by the Legislature whenever needed.

Section 2 eliminates the requirement for the Department of Taxation to submit an annual report on its activities, findings and recommendations with respect to its supervision of the property assessment procedures employed by county assessors throughout the State. The requirement for the Department to submit the report was initially added in 1953, and we do not currently receive requests for this report. The Department would maintain its responsibility to supervise the assessment practices of the county assessors.

Section 3 eliminates the requirement for the Department of Health and Human Services (DHHS) to submit biennial reports containing its recommendations for legislation to assist in providing Personal Assistance Services for persons with severe functional disabilities. The report was required when the program was first created in 2001. There are various other means available for the Director of DHHS to recommend legislation, including the fact that the Executive Branch has 110 BDRs at its disposal each Session.

Section 4 eliminates the requirement for the Director of the Department of Health and Human Services to provide a biennial report identifying statutes, regulations and standards which add to the cost of health care without providing a significant benefit and action which has been taken or is required to eliminate any such statutes, regulations and standards. The requirement was

imposed in 1985. Recent reports have not identified significant statutory changes and have mostly included regulations that could be amended without such a report.

Section 5 eliminates the requirement for societies for prevention of cruelty to animals to provide biennial reports of all their actions. The requirement was enacted in 1873, and no such reports have been provided in many years.

Sections 6 and 8 eliminate the requirement for the Director of the Office of Energy to submit an annual report on the activities or programs and requires they be included in the Director's report on the status of energy in the State. This combines two separate reports into one report that would be provided to the Governor annually and to the Legislature biennially.

Section 7 eliminates the requirement for the Director of the Office of Energy to submit a biennial report on the general progress of the energy reduction in State buildings. The plan referenced in the statute is completed, and the program is in effect. The Office of Energy has a separate program to track use of the energy in buildings owned by the State or used by State agencies.

Section 9 revises section 17.5 of the Nye County Sales and Use Tax Act of 2007 to change the recipient of the quarterly and annual reports of sales and use taxes imposed to recruit, employ and retain public safety personnel in the county. Currently, the reports are provided to the Director of the LCB for transmittal to the Legislative Commission. Section 9 would require that the reports be submitted to the Department of Taxation instead. This would be consistent with the manner in which the More Cops Tax reports for Clark County are being handled.

SENATOR PICKARD:

Can we add a report to see how many reports are being required?

MR. COMBS:

Whoever adds a report in a bill generally has some attachment to the report. It is easy to go back and pick out the old ones and say no one has asked for this in a while. How we handle these reports is basically to put them online. They are searchable up on our website. It is something where we could probably track hits on our website to see if people are looking at them. But I am not sure if that is an accurate way to do this. It is a difficult assignment to go through

the reports that do not mean something to someone. I have been careful in picking which reports are not receiving inquiries. A good idea is to have the agencies post the information online instead of generating a report.

CHAIR OHRENSCHALL:

This gives me a chance to compliment the LCB website since I have browsed through several of the pages looking at reports. This is the only place you can find them at the time, but the website is a great resource.

SENATOR SEEVERS GANSERT:

I had a bill related to occupational licenses and requirements if someone was doing a background check and why. I discovered a current requirement in statute for boards to provide quarterly reports to the Sunset Subcommittee of the Legislative Commission. This really surprised me as I do not know why we have quarterly reports. I had suggested to the Senate Chair of Government Affairs that maybe we should change that. I was not sure if anyone reads them. Do you have any thoughts on these reports?

MR. COMBS:

We have tried to develop a system on our website where the Sunset Subcommittee can submit its report. That information gets compiled in a report to the Legislative Commission in a meeting packet every quarter. It is not a regular occurrence that these reports are discussed at a Legislative Commission meeting. Due to the focus this Session on issues regarding occupational licensing boards, a few bills require us to get additional information from those boards and commissions to include them in that website report. It is adding significantly to the amount of information that they are being required to report.

SENATOR SEEVERS GANSERT:

In the bill that I had drafted, LCB suggested it go on the report. The query goes into the queue because it already exists. It almost leads you down the road to adding to reports instead of reducing them. I was surprised there were quarterly reports, and I am sure folks read them. In the future, there might be appetite to reduce that. I am not sure what the compliance rate would be if we have so many boards if all of them are producing the quarterly reports; if not, what happens with that? This may be an opportunity for cleanup.

MR. COMBS:

One of the things that frustrates me as the LCB Director is I do not have the time to follow up on the hundreds of reports out there. I do not have staff dedicated to making sure reports are submitted. I am planning on working with the Research Division during the Interim to transfer some of that responsibility to the Research Library. Since the Research Library is responsible for getting information on the website, it has a better opportunity to see how much time is available in tracking the more important reports and following up with the reports that have inquiries. This will give us a better understanding of who is using these reports.

CHAIR OHRENSCHALL:

The LCB website can keep track on hits and how many people pull up the reports. In the old days, you could not see who was looking at these reports.

SENATOR PICKARD:

Would it be feasible to move these reports to the website? Does the website support the analytics that will capture information? If we could migrate all of these reports to the website, we would have the data in a short amount of time. This could help in seeing what reports are active and which ones are not used. Is this feasible?

MR. COMBS:

I think so; it is not a task we have taken on yet, but everything is migrated to the website. Whether it is being done in the best fashion, that part of the website is robust as could be in tracking hits. It is my hope when we work with the Research Library, we can look at these issues. We need to do a better job on the reports that we receive.

Senate Committee on Legislative Operations and Elections
May 15, 2019
Page 28

CHAIR OHRENSCHALL:
I will adjourn this meeting at 6:43 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	2		Agenda
	B	4		Attendance Roster
A.B. 50	C	3	Michael Stewart	Work Session Document
A.B. 274	D	1	Michael Stewart	Work Session Document
A.B. 448	E	1	Michael Stewart	Work Session Document
A.B. 450	F	1	Michael Stewart	Work Session Document
A.J.R. 6	G	2	Michael Stewart	Work Session Document
A.B. 186	H	1	Michael Stewart	Work Session Document
A.J.R. 2 of the 79th Session	I	1	Assemblywoman Sandra Jauregui	Testimony
A.J.R. 2 of the 79th Session	J	1	Senator David R. Parks	Testimony
A.J.R. 2 of the 79th Session	K	1	Stephan Page / Humans Rights Campaign	Testimony
A.J.R. 2 of the 79th Session	L	2	Kent Ervin / Nevada Faculty Alliance	Testimony
A.J.R. 2 of the 79th Session	M	1	Amanda Khan / Progressive Leadership Alliance of Nevada	Testimony
A.J.R. 2 of the 79th Session	N	1	Rex Reed / American Civil Liberties Union of Nevada	Testimony
A.J.R. 2 of the 79th Session	O	1	Bob Russo	Testimony

A.B. 449	P	20	Holly Welborn / American Civil Liberties Union of Nevada	Proposed Amendment/Youth Confinement Report
A.B. 449	Q	1	Rex Reed / American Civil Liberties Union of Nevada	Testimony