

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

**Eighty-First Session
April 29, 2021**

The Committee on Legislative Operations and Elections was called to order by Chair Brittney Miller at 4:02 p.m. on Thursday, April 29, 2021, Online and in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Brittney Miller, Chair
Assemblywoman Sandra Jauregui, Vice Chair
Assemblywoman Jill Dickman
Assemblywoman Cecelia González
Assemblyman Glen Leavitt
Assemblyman Andy Matthews
Assemblyman Richard McArthur
Assemblywoman Daniele Monroe-Moreno
Assemblywoman Clara Thomas
Assemblywoman Selena Torres

COMMITTEE MEMBERS ABSENT:

Assemblyman Jason Frierson (excused)

GUEST LEGISLATORS PRESENT:

Senator Marilyn Dondero Loop, Senate District No. 8
Assemblyman Tom Roberts, Assembly District No. 13

STAFF MEMBERS PRESENT:

Pepper Sturm, Committee Policy Analyst
Kathleen M. Norris, Committee Counsel
Bonnie Borda Hoffecker, Committee Manager
Lori McCleary, Committee Secretary
Melissa Loomis, Committee Assistant



OTHERS PRESENT:

Maureen Schafer, Executive Director, Council for a Better Nevada

Warren Hardy, representing Council for a Better Nevada

Hawah Ahmad, representing Clark County Education Association

Gina Bongiovi, Chairwoman, Board of Trustees, Vegas Chamber

Vicki Rosser, Chair, Executive Committee, Faculty Senate, University of Nevada,
Las Vegas

William Boldt, Emeritus Vice President for Advancement, University of Nevada,
Las Vegas

Jake Tibbitts, Natural Resources Manager, Department of Natural Resources,
Eureka County

Alexander Marks, Communications Specialist, Nevada State Education Association

Amy Pason, Chair, Executive Board, Faculty Senate, University of Nevada, Reno

Mark W. Doubrava, M.D., Chair, Board of Regents, Nevada System of Higher
Education

Kent Ervin, Vice President and Legislative Liaison, Nevada Faculty Alliance

Chair Miller:

[Roll was called. Committee rules and protocol were explained.] We will have one bill hearing today, and we will take up to 30 minutes of public comment after the hearing.

Our one bill today is Senate Joint Resolution 7. It will be presented by Senator Marilyn Dondero Loop and Assemblyman Tom Roberts. This is a measure that proposes to amend the *Nevada Constitution* to remove the constitutional provisions governing the election and duties of the Board of Regents. I will now open the hearing on S.J.R. 7.

Senate Joint Resolution 7: Proposes to amend the Nevada Constitution to remove the constitutional provisions governing the election and duties of the Board of Regents of the State University and to authorize the Legislature to provide by statute for the governance of the State University and for the auditing of public institutions of higher education in this State. (BDR C-944)

Senator Marilyn Dondero Loop, Senate District No. 8:

I am pleased to be joined today by Assemblyman Tom Roberts. We are presenting Senate Joint Resolution 7, the Nevada Higher Education Reform, Accountability and Oversight Amendment, which relates to the governance of the University of Nevada system. I am sure many of you are aware of the general contents of the resolution. Nonetheless, I will start with some introductory comments, and Assemblyman Roberts will provide additional comments after me.

As you know, the *Nevada Constitution* requires the Legislature to provide the establishment of a State University that is controlled by an elected Board of Regents whose duties are

prescribed by law. Additionally, the *Nevada Constitution* provides for the Board of Regents to control and manage the affairs and funds of the State University under regulations established by law.

Senate Joint Resolution 7 proposes to remove the constitutional provisions governing the election and duties of the Board of Regents and its control and management of the affairs and funds of the State University. Instead, S.J.R. 7 would require the Legislature to provide by law for the governance of the State University. I want to stress that S.J.R. 7 does not repeal any existing statutory provisions governing the Board of Regents, including those that provide for the election of the Board of Regents. However, it would make the Board a statutory body whose structure, membership, powers, and duties are governed by statutory provisions subject to any statutory changes made through the legislative process. This is no different than so many other boards set forth in the *Nevada Revised Statutes* (NRS).

In the lead-up to previous sessions, there has been some misrepresentation of information provided to policymakers, including the Nevada Legislature. Assemblyman Roberts and I are encouraged by steps taken in recent years to correct this misinformation. We must be focused on building long-standing and stable systems of governance, not on individual personalities. We owe the citizens of Nevada a culture of accountability in all levels of government. This higher education system belongs to all Nevadans—all of us who live here in Nevada. It is a collective investment in the future of our state.

As you recall, Assembly Joint Resolution 5 of the 79th Session, which proposed some of the same amendments as S.J.R. 7, passed overwhelmingly in two legislative sessions, and we are grateful for the support of our colleagues. Senate Joint Resolution 7 removes the Board of Regents from the *Nevada Constitution*, but it does not substantively change any higher education policy or procedure. It simply puts the Board of Regents and the Nevada System of Higher Education (NSHE) on par with every other governing board and state agency created pursuant to statute. Chapter 396 of NRS would continue to exist, would still comprehensively govern the Board of Regents, and would still include the requirement that the members of the Board be elected.

The purpose of S.J.R. 7 is twofold: it allows the Legislature to exercise informed and measured governance of NSHE, and it allows more flexibility in considering reform proposals. Constitutional governance serves as an antiquated way to oversee higher education. The reason the Board of Regents was placed in the *Nevada Constitution* in the first place was to access land grant funding under the Morrill Land Grant Act of 1862 [*United States Code*, Title 7, Sections 301 et seq.] without requiring action by the Legislature. Ever since, we have included all the state's higher education governance and administration under this provision despite a laundry list of studies and analysis recommending the reorganization of the state's higher education structure.

It is our belief that with the passage of S.J.R. 7, we will see a resurgence of strong support for NSHE and the Board of Regents. Assemblyman Roberts and I pledge our support to work

with the NSHE administration and the Board of Regents on behalf of the students, the families, and our communities so that we can have the best higher education system in our nation.

This concludes my testimony. I would like to turn the presentation over to my colleague, Assemblyman Tom Roberts, who will provide further information about S.J.R. 7.

Assemblyman Tom Roberts, Assembly District No. 13:

I am pleased to join Senator Dondero Loop in my support for S.J.R. 7.

I would like to point out, as stated in the ballot question arguments for passage of A.J.R. 5 of the 79th Session [Question No. 1, 2020 General Election]:

Although some other states have elected boards with constitutional status that control and manage particular institutions and programs of public higher education, Nevada is the only state in which a single elected board with constitutional status controls and manages the affairs and funds of the State's entire system of public higher education. In past cases before the Nevada Supreme Court, the Board of Regents has asserted that its "unique constitutional status" gives it "virtual autonomy and thus immunity" from certain laws and policies enacted by the Legislature. (Board of Regents v. Oakley, 97 Nev. 605, 607 (1981)) Based on legislative testimony, such assertions have given some people the impression that the Board conducts itself as a fourth branch of government, and that the Board too often invokes its constitutional status as a shield against additional legislative oversight and accountability.

As Senator Dondero Loop noted, things have improved in recent years; nonetheless, this general government structure needs to change. A good example of this is how the State University's budget is administered. While the *Nevada Constitution* requires the Legislature to provide financial support for the operation of the State University, it also directs the Board of Regents to control and manage the funds of the State University. This divide between the Legislature's constitutional power to fund higher education and the Board's constitutional power to direct how those funds are actually spent gives the Board virtual unparalleled power within state government to control and manage higher education spending without the same level of legislative oversight typically applied to other Executive Branch offices.

Another component of S.J.R. 7 relates to the administration of federal land grant proceeds that are dedicated for the benefit of the State University. As a bit of background, the *Nevada Constitution* provides that funding derived by the state of Nevada under the Morrill Land Grant Act of 1862 [7 U.S.C. §§ 301 et seq.] must be invested in a separate fund and dedicated for certain departments of the State University. If any amount of the separate fund is lost or misappropriated through neglect or any other reason, the state of Nevada must replace the lost or misappropriated revenue so that the principal of the fund remains

undiminished. Senate Joint Resolution 7 clarifies and modernizes existing provisions of the *Nevada Constitution* relating to the administration of these federal land grant proceeds. However, because the state of Nevada must administer those proceeds in a manner required by federal law, S.J.R. 7 will not change the purpose of the use of those proceeds.

In closing, Senator Dondero Loop and I know that S.J.R. 7 represents a second bite at the apple. This time, however, the language in S.J.R. 7 is softened compared to A.J.R. 5 of the 79th Session; it now calls for the governance, rather than the control and management, of the State University. Moreover, a biennial legislative audit of the State University and any other public institutions of higher education established by the Legislature is also included in S.J.R. 7. This new, gentler language and the audit provision will bring an enhanced level of transparency and trust that our system of higher education so desperately needs.

That concludes our presentation. We urge your support of S.J.R. 7. This is just the beginning of a long process to bring this forward to the voters. We hope that you agree that Nevadans should have an opportunity to consider S.J.R. 7 in 2024.

At this time, I would like to introduce Maureen Schafer, who is the Executive Director of the Council for a Better Nevada, to address S.J.R. 7. She will be followed by Mr. Warren Hardy. At the conclusion of their testimony, we will be happy to answer questions.

Maureen Schafer, Executive Director, Council for a Better Nevada:

The Council for a Better Nevada is a community organization comprising labor, business, and philanthropic leaders whose purpose is to impact progress on issues that will increase the quality of life for all Nevadans. The Council would like to thank Senator Dondero Loop and Assemblyman Roberts for bringing S.J.R. 7 forward. We testify in strong support of the opportunity it presents for greater accountability, transparency, and oversight of the Nevada System of Higher Education—a system that carries with it a \$1 billion biennial budget in taxpayer dollars in the operation of the seven institutions and the corporate NSHE office within it.

Today, those seven community colleges, colleges, and universities each have their own unique missions, are attempting to serve their own student populations, and are working every day to grow in dynamic and creative ways to meet the times in which we all live while at the same time preparing their students to both navigate and shape a stronger and more sustainable Nevada. Our students' academic success represents a future sustainable Nevada, yet the state's public investment of nearly \$1 billion, which has been a consistent, important priority of this Legislature, has been remarkably ranked sixteenth nationally in per pupil spending and has also consistently translated to forty-sixth nationally in college attainment outcomes when we look at what has been accomplished with that generous and thoughtful investment ["State Higher Education Finance: FY 2019," produced by the State Higher Education Officers Association; Bachelor's degree or higher, percent of persons age 25 years+, 2015-2019 data, U.S. Census Bureau, U.S. Department of Commerce].

Nevada can do better. Fortunately, with S.J.R. 7, the Legislature understands this call to action, and in particular, that strong governance drives improved transparency and accountability.

Nevada has been one of the fastest-growing, if not the fastest-growing, states in population growth the last many decades. Our learning institutions have added student numbers, increased diversity, and have responded to their local economy to understand the types of workforce their local communities need to aid our growing economies. However, the governing structure of our higher education system is struggling to be able to respond to opportunities in changing times. Oftentimes, divisive regionalism wins the day over politics of a new and unified and sustainable Nevada. The Board of Regents continues to come under the microscope for various and ongoing fiscal, management, and general information issues the public and you, the Legislature, fail to understand and is forced to answer questions either in hearings like this or oftentimes through the media or third parties. More simply, they consistently prove it is a struggle to keep up with the business, academic, and people largesse of their own billion-dollar organization.

Change is hard—even when you know you need it—and change management principles suggest that most organizations have difficulty reforming chronic legacy issues from the inside. By placing the Board of Regents in the governance of the Nevada Legislature, S.J.R. 7 will enable greater accountability and transparency of the existing Board of Regents and ensure stronger stewardship of the invaluable taxpayer dollars currently invested in NSHE. The public trust deserves stronger governance. With it, the public trust will be restored in a greater capacity in a system that so many families, students, and our economy depend on for their higher education experience—and what Nevada depends on for our future economic sustainability and growth.

Placing the existing Board of Regents governing structure under the purview of the Nevada Legislature is certainly not the magic bullet or the perfect answer. No public governing institution ever is; however, this change does create increased accountability and greater transparency than exists today within the current system for Nevadans to understand how current funds are spent or how the Board is making decisions on behalf of institutions and its students who learn within it.

It is important to note: this change implements checks and balances without changing the current regent-elected governance. Moreover, and more critically, S.J.R. 7 will bring focus back to our students and our economy. The increased transparency and accountability will be a positive step for NSHE as well. All parties—the public, the students, the Legislature, and NSHE itself—stand to benefit from this evolution.

I want to thank Senator Dondero Loop and Assemblyman Roberts for bringing this critical bill forward for increased transparency, accountability, and performance of our higher education system. We urge you to pass S.J.R. 7. Thank you.

Warren Hardy, representing Council for a Better Nevada:

We appreciate your taking up this important issue today, and I want to add my appreciation to Senator Dondero Loop and Assemblyman Roberts for bringing this important issue back. I think the sponsors of the resolution did a really good job outlining the reason and the purpose for it. I would like to highlight very briefly a couple of things that they said and add one more thing for your consideration.

At the end of the day, the intent of S.J.R. 7 and the resolution last time [A.J.R. 5 of the 79th Session] is to bring the *Nevada Constitution* back into alignment with what we believe were the intentions of the framers of the *Nevada Constitution* at the constitutional convention. As Assemblyman Roberts indicated, there was a very specific reason at that time for including a constitutional provision for the Board of Regents, and that directly aligned with the Morrill Land Grant Act of 1862 [7 U.S.C. §§ 301 et seq.], which was just a couple of years prior to the constitutional convention. The framers wanted to be able to do that in order to very timely get those funds in place at the University of Nevada and not have to go through the legislative process to do it.

The framers were very, very concerned. If you read the minutes from the constitutional convention, you will understand that the framers were very concerned about doing it that way because they were afraid it would be interpreted as giving more power to the Board of Regents over the governance of higher education in the state than what was intended [*Official Report of the Debates and Proceedings in the Constitutional Convention of the State of Nevada Assembled at Carson City, July 4th, 1864, to Form a Constitution and State Government*]. If you read it, and I would encourage you to because it is a very interesting read, there are several points on the record where they talk about not wanting to give the impression that there is too much power and authority.

Because that was put in, however, there was a Supreme Court ruling many years ago that did opine or rule that the Board of Regents has in some very, very narrow instances and in very narrow cases, some autonomy over the Legislature in implementing policy [*King v. Board of Regents*, 65 Nev. 533, 200 P.2d 221 (1948)]. Again, that was a very, very narrow interpretation to a very narrow set of circumstances. Since that date, and I think it was in the 1940s, the Board of Regents has consistently argued that based on that ruling, it has broad autonomy and broad immunity from legislative actions. A simple reading of the constitutional convention minutes illustrates that is simply not the case.

The result and net effect of that—which I think ought to be problematic to any member of the Legislature and, frankly, to any voter—is to create a fourth branch of government. That is problematic in the sense that we have the most brilliant government experiment in the world that is based on the separation of powers and checks and balances. By inadvertently, historically, and through culture, creating this fourth branch of government, we have created a branch of government that does not have those checks and balances; it does not have that separation of powers. That is where the problem comes in, as my colleagues have indicated.

Senate Joint Resolution 7 seeks to resolve that—to bring those checks and balances and separation of powers and to bring the Board of Regents and NSHE into the fold, if you will—in terms of legislative oversight that the Legislature has on every other agency and department that it funds.

I will anticipate the question of why we are bringing it back for a second bite at the apple. I think we will take some of the blame for that. This is not a knock on the voters, but what we ended up drafting was a very complex, very confusing ballot initiative. That is not my opinion; that comes from focus groups that we have done, from polling that we have done, and from the voter data itself. It is interesting to note that close to a full 60,000 voters jumped over Question No. 1 ["2020 Official Statewide General Election Coverage and Reports," prepared by the Office of the Secretary of State]. They did not vote for Question No. 1 and went straight to Question No. 2. That is an unmistakable indication that we developed a ballot initiative that was not well understood by the public. In our data and our polling, it is clear that many people thought they were voting to eliminate the direct election of the Board of Regents, which was certainly not our intent.

That is the reason for a second bite at the apple as Assemblyman Roberts put it. It was very, very narrow as you know. We think the voters deserve another shot at this with maybe a little better job on our part of defining the issue. I appreciate your letting me ramble. I would be happy to answer any questions the Committee may have.

Chair Miller:

Committee members, do we have any questions?

Assemblywoman Dickman:

My question is pretty simple, but it might take some explanation. Specifically, how does this differ from Question No. 1 that was just recently defeated by 16 of the 17 counties? I talked to many people who did not think it was what you said, Mr. Hardy; they knew it was just taking the Board of Regents out of the *Nevada Constitution*. What is different about this that will make it more palatable to the people?

Warren Hardy:

There were several things in A.J.R. 5 of the 79th Session that made it appear that this was far broader. There was language in there regarding academic freedom and those types of issues. I think that is what lead to confusing the public. It was clear. Certainly not everybody was confused—I do not mean to indicate that—but a significant portion was.

This legislation simply zeros in on the fact that the Legislature will take over the governance of higher education. The Board of Regents will still remain in place; the Board of Regents will still be elected. All of the governance structure that is currently in place will still be in place. This just very clearly specifies that the responsibility for accountability will be through the Legislature.

We heard unmistakably in our polling and in the data that we collected that there was overwhelming, monumental support for the notion of a regular audit of NSHE, which has not been done. We have a separate piece of legislation this session to achieve that [Assembly Bill 416]. That is the second thing this resolution does and the other place where there is a difference—placing an emphasis on the auditing.

Again, the entire purpose of this legislation from day one has been to create an accountability that exists with NSHE just like it exists at the State Department of Agriculture or the Department of Motor Vehicles and every other agency that the state funds. I think NSHE is the largest or one of the largest budget items in the state, yet the accountability is not there the way it is for other states.

To Assemblywoman Dickman's question, it is far more focused on what we are trying to accomplish than the last ballot question was.

Senator Dondero Loop:

This is what I addressed in my remarks. There was literally purposeful misinformation by the opposition. I believe that most people thought that we were targeting the Board of Regents. Senate Joint Resolution 7 is specifically just taking the university system out of the *Nevada Constitution*.

Assemblyman Matthews:

To the issue of accountability—given that regents are currently elected and would continue to be—viewed from that perspective, the accountability, theoretically at least, rests directly with the people of the state who are electing people who campaign for office specifically on issues germane to the responsibilities of the Board of Regents. As lawmakers, however, we are responsible for a wide array of issues.

I am just wondering if you can speak to that issue in terms of how this really does increase that accountability. In a sense, you can see where that accountability rests now most directly with those who are affected by the decisions of NSHE: the voters.

Warren Hardy:

That is a very good question that I think is important to be part of the record. This is largely about accountability, but not just financial accountability. In my experience, in my 30 years or so in the Legislature, on many of the occasions where the Legislature has reached out and tried to implement policy and tried to have some input into the direction of our higher education, we have gotten pushback to the point of lawsuits from the Board of Regents about the inappropriateness of members of the Legislature having the ability to set policy. It is about accountability, not just for dollars but also about the performance of our system of higher education. It is not an attack on the Board of Regents. We have had wonderful, wonderful regents, including the mother of one of the bill's sponsors, who has been remarkable and did a wonderful job with higher education.

It is entirely appropriate for the Legislature to have its position heard, to have its voice heard, and to have input into the policy direction of higher education in this state—not just simply say: Here is \$1 billion; get back to us with what you did with it. Again, there are some, through the years on the Board of Regents, who believe that is the role of the Legislature: Give us the money and let us implement our constitutionally provided right to spend it. I will just say that I think that is inappropriate. I think the Legislature should have that input. I hope that answers your question.

Assemblyman Matthews:

I appreciate that. You touched on something that gets to my next question. You can see where this would increase that accountability, transparency, and oversight. Obviously, the objective of any education system is ultimately educational achievement and quality. It may be difficult to address that in detail today, but I am wondering if you could try to connect those dots for me and talk through some tangible ways in which you foresee this ultimately getting to that chief goal down the road. How is this going to ultimately end up and result in better outputs and better educational achievement from the system?

Senator Dondero Loop:

That woman regent who Mr. Hardy was referring to that I know very well always said: Transparency and accountability, almost 100 percent, always leads to trust [Thalia M. Dondero]. When we are making laws and funding things, I think that the public deserves accountability. I always say that with public dollars comes public accountability. When you have a branch of government, if you will, that does not necessarily fall under that same accountability measure, I think that presents an issue.

It presents an issue to the people who are running that as well because if they do not do that, they can be as honest as the day is long and doing everything 100 percent right—the William S. Boyd School of Law [University of Nevada, Las Vegas] is number 60 for best law schools in the U.S. News & World Report. We are doing great things in this state, and I think that we want to know those things.

Warren Hardy:

As usual, Senator Dondero Loop hit the nail on the head. From my own experience as a member of the Legislature during the time that I spent in the Assembly and the Senate, I got a lot of constituent calls about higher education and the frustration that we are very high in funding but not, in some cases, as high in performance as we should be. However, I would add to what Senator Dondero Loop said: there are major victories and a lot of good things happening in NSHE. Our medical school is a perfect example. Our law school is a perfect example; it has just shot to the top in the years it has been in existence. For the University of Nevada, Las Vegas, medical school [Kirk Kerkorian School of Medicine], every one of our students was placed at a great, prominent university for their residencies. There are wonderful things happening, and I certainly do not want to take away from that.

My frustration as a member of the Legislature was that I would bring ideas and you almost had to run them by the Board of Regents. There did not seem to be an ability to participate in

that process. Any system is better when more folks have the ability to provide input on the policies and the things that should be done. It is entirely appropriate for the Legislature to share its ideas, bring those things forward, and actually see them implemented if it is going to continue to fund.

Assemblyman Matthews:

Thank you. I do have one more question, but I do not want to monopolize all the time here, so I am happy to circle back later if there is time and allow other Committee members to ask their questions.

Chair Miller:

Thank you, I appreciate that. Committee members, do we have any additional questions? [There were none.] Assemblyman Matthews, would you like to ask your question?

Assemblyman Matthews:

This might be more of a comment than a question. Given that the Legislature is obviously, as we all know, predominately made up of representatives from the state's two largest counties, but given also that NSHE does serve our rural populations, there may be a concern that this could potentially further dilute the voices of those colleges in our rural communities. I do not know if that is something that you might address, or perhaps I am missing something with how this would be applied.

Senator Dondero Loop:

I would just tell you that taking the system out of the *Nevada Constitution* would actually do nothing but enhance the state as a whole. Once again, I think we have a fine system. We have two brand-new presidents and a brand-new chancellor. This is a new day. We have wonderful leaders at our universities and our community colleges. I think that this is a time for us to strengthen our system and move forward.

We have a unique system where it was in the *Nevada Constitution*. Lots of people do not even know that it was started in Elko; we did not start the University of Nevada in Reno. This state has grown. When I was a kid, we did not know that Las Vegas would be so big. I just think it is time for us to do things differently, and this would be one way to do that. It is not a slight on anyone; it is just asking that if we are going to be awarding money to a system, that we have some accountability.

Warren Hardy:

I think that is a good question and one worth exploring. I would respectfully submit one of the things I used to say consistently in my time at the Legislature: Problems of government are best solved at the level of government closest to the people.

I think this will have the effect of bringing higher education policy closer to the people. We have a limited Board of Regents that does not have the reach that the Legislature has. The Nevada Legislature, happily, is very well represented in the rural areas. This would give an additional ability for those constituents to have their higher education points of view

heard, considered, and implemented by reaching out to their legislative delegation. I would respectfully argue that it does a great deal to enhance the access to higher education policy for members of rural Nevada.

Chair Miller:

Are there any additional questions from Committee members? [There were none.] I will open up testimony in support of S.J.R. 7. Is there anyone in the room who would like to testify in support? [There was no one.] Is there anyone on the lines wishing to testify in support?

Hawah Ahmad, representing Clark County Education Association:

[Ms. Ahmad read excerpts from her written testimony, [Exhibit C](#).]

The Clark County Education Association supports Senate Joint Resolution 7, which will provide transparency and accountability to Nevada's System of Higher Education. In 2020, CCEA supported this resolution in the form of Ballot Question No. 1, and we wholeheartedly believe the voters deserve the opportunity to vote on this measure with simplified, easy to understand language.

The Clark County Education Association supports this resolution because we believe that the K through 20 education delivery system in Nevada needs to be well funded with sufficient transparency and accountability measures to reach the goal of economic diversification in the state of Nevada. We know the key to economic diversification and workforce development lies in agility of program development and an abundance of resources to provide our students with a quality education. This is just one step in many that will help ensure the \$1 billion spent biennially on higher education is strategically spent to improve student outcomes. It is time we put student achievement first. The Clark County Education Association thanks this committee and urges you to vote yes on S.J.R. 7.

Gina Bongiovi, Chairwoman, Board of Trustees, Vegas Chamber:

On behalf of the state's largest and broadest-based business association, the Vegas Chamber is in support of S.J.R. 7. We appreciate the work that the bill sponsors have done to bring this proposal forward today.

As Committee members know, the Vegas Chamber has a long history of engagement on higher education matters because workforce development is a top issue of our employers and our members. The Vegas Chamber believes that the passage of S.J.R. 7 is an important component to reform the state's higher education governance structure, and that it aligns with meeting the needs of today's students and employers is essential.

We all recognize the demands on our workforce are quickly changing, and we need to review how our higher education structure is responding to these changes. Nevada's employers need students who are ready to enter the workforce when they graduate from an institution of higher education, and our economy needs innovation through research that can drive

diversification. Governance reform has been an ongoing discussion in this building for many years, and the need to fix our governance structure is still there and should be addressed.

We also recognize that the language of A.J.R. 5 of the 79th Session, which eventually became ballot Question No. 1, was confusing to voters this past November [2020]. Senate Joint Resolution 7 would provide much needed clarity between the Board of Regents and the Nevada Legislature. This resolution would also enact governance reforms that many in our state are seeking. We do recognize that there have been recent efforts by NSHE to align education, but for the long-term benefit of both students and employers, we need a reformed higher education governance structure on which we can depend for the long term.

This is good public policy that is based on sound reasoning, data, and facts. We urge this Committee to pass S.J.R. 7. I would like to thank the Chair and members of the Committee for the opportunity to speak today.

Vicki Rosser, Chair, Executive Committee, Faculty Senate, University of Nevada, Las Vegas:

I would like to provide a scenario leading to the consideration of S.J.R. 7. At the March Board of Regents meeting, an individual told the Board to make a stand against Senate Bill 287, which would allow the University of Nevada, Las Vegas (UNLV) land grant status. We at UNLV, a minority-serving institution, or MSI, have felt for years that we do not receive an equitable share of state resources but significantly supplement others in the system. That NSHE would even consider holding back UNLV from obtaining land grant status to apply and compete for federal funds is unconscionable. Rather than celebrating the fact that UNLV, an MSI, would become a land grant institution, the implication is to deny or oppress the institution of fair and equitable opportunities to compete.

We have also become aware that backroom conversations are going on with the Legislature and the other institution to stop UNLV's equitable request to continue to pursue greatness for our students and our state as a land grant institution. In a sense, I would like to thank that individual for his comment, as it has reinvigorated the groundswell of support for S.J.R. 7. This lack of perceived equity and accountability has given cause to move forward in a more aggressive manner to stop the systematic oppression to squelch UNLV, an MSI, equal opportunity and access.

Finally, let me remind everybody that previously on Question No. 1, as mentioned earlier, Clark County voted 56.39 percent in yes votes ["2020 Official Statewide General Election Coverage and Reports," prepared by the Office of the Secretary of State] That equated to close to 75 percent of the state's total yes votes [Allotted time was exceeded.]

Chair Miller:

If you have additional comments, we welcome you to send them in written form.

William Boldt, Emeritus Vice President for Advancement, University of Nevada, Las Vegas:

I have had an opportunity in my 49-year career to work with the system of higher education in New York at Cornell University, the system of higher education in Oregon, the California State University system, the University of California system, and UNLV.

Let me tell you how it is to work at UNLV. It is a great institution. I spent nine years there—wonderful people, wonderful regents. However, the regents do not have the accountability that I have seen with the other institutions in states that I worked in. What happens is there is micromanagement that I have never seen in my career except at UNLV. The level of micromanagement often hurts our students and our faculty. Frankly, at times, I wondered who I was working for: the Board of Regents or the students, faculty, deans, and president. It is not easy working in a system like this. I think the turnover of presidents is something that is evidence. In working in other systems—it was so refreshing to leave UNLV and to go to Oregon because of the accountability there; we never had any interference. I just want you to know that working underground at UNLV—a wonderful institution, and I loved my nine years there, probably the best years of my career—was very difficult politically because of the lack of accountability. It translates to less money in the classroom because of the large budget that NSHE has and the regents govern. Thank you.

[There were no more callers in support.]

Chair Miller:

We will close testimony in support. [[Exhibit D](#) was submitted in support of [S.J.R. 7](#) but not discussed and is included as part of the record.] Is there anyone who wishes to testify in opposition to [S.J.R. 7](#)?

Jake Tibbitts, Natural Resources Manager, Department of Natural Resources, Eureka County:

Thank you for allowing Eureka County to provide its opinion and insights on [S.J.R. 7](#). Eureka County is opposed to [S.J.R. 7](#). We note that Question No. 1, which has been discussed, based on the previous [A.J.R. 5 of the 79th Session](#) proposed to effectively do the same thing, and it was resoundingly rejected by Eureka County voters with over 76 percent voting against Question No. 1 ["2020 Official Statewide General Election Coverage and Reports," prepared by the Office of the Secretary of State]. This large margin is not due to voters not understanding the question.

Beyond arguing about the merits of moving the Board of Regents under direct control of the Legislature, we are primarily concerned with and opposed to the provisions on lines 13 and 14 of page 5 of [S.J.R. 7](#), proposing to amend Section 4, Article 1 of the *Nevada Constitution* by adding the open-ended power of the Legislature to designate additional "other departments deemed appropriate for the State University." We believe this language is overreached, it is not advisable, and it muddies the waters relating to land grant status by including yet to be identified or defined additional departments not consistent with the original land grant intent and land grant mission.

It is crucial from our perspective to retain the land grant mandates identified in the Morrill Land Grant Act of 1862 and the land grant supplementary acts of U.S. Congress, namely the Hatch Act of 1887 [*United States Code*, Title 7, Sections 361a et seq.] and the Smith-Lever Act [*United States Code*, Title 7, Sections 341 et seq.] in 1914. At a minimum, please strike this language from S.J.R. 7 if the Committee chooses to move forward with the resolution. Thank you.

Alexander Marks, Communications Specialist, Nevada State Education Association:

[Mr. Marks read from written testimony, [Exhibit E](#), submitted by Christopher Daly, Deputy Executive Director, Government Relations, Nevada State Education Association.]

The Nevada State Education Association has been the voice of Nevada educators for over 120 years. The Nevada State Education Association opposes S.J.R. 7 to remove constitutional provisions governing the election and duties of the Board of Regents.

Nevadans made their voices heard when they voted down Question No. 1. Voters support electing members of Nevada's Board of Regents. While NSEA did not actively engage in the Question No. 1 campaign, we have a longstanding position in support of electing governing boards in education.

Elected boards are in place to ensure schools and colleges reflect the values of the people, providing direct lines of accountability to the community. This is the main reason elected boards are preferable to appointed or hybrid models. Appointed officials are shielded by an appointing authority who typically has significant other responsibilities in addition to board appointments. It is extremely rare to see an elected official voted out of office over the actions or conduct of another official they have appointed. This is truer still when the appointment is made by another deliberative body.

Democracy can be messy. Money can have a substantial influence on elections, and sometimes campaigns are negative and turn off voters. Oftentimes, our preferred candidates do not win. While these challenges are real, they are certainly not enough to abandon our system of democratic governance. Instead, we should continue our efforts to make elections more democratic. The Nevada State Education Association supports the direction of expanding democracy, and we will continue our commitment to engage in increasing electoral participation and education.

Amy Pason, Chair, Executive Board, Faculty Senate, University of Nevada, Reno:

I speak on behalf of all academic and administrative faculty on the University of Nevada, Reno (UNR) campus—faculty who are also taxpayers, voters, state employees, and stakeholders directly impacted by this resolution. I have submitted written testimony [[Exhibit F](#)], but I wanted to highlight just a few things that are in my written testimony.

My faculty members have many questions when it comes to the intention of this resolution or what the Legislature intends, especially in all the "whereas" provisions that are in the resolution—that this would allow the Legislature to take its full legislative powers when it comes to higher education policy.

When I teach my public speaking students, I always ask them to provide concrete examples. What concrete examples do you have on the checks and balances that you would like to put on higher education? Here is one concrete example that I can think of: the furloughs that we were given by the Legislature over the summer to address the budget constraints were furloughs that did not have exemptions for faculty who are fully funded by federal grants, nor exemptions for instructors who are paid as little as \$3,000 per course. My faculty members were not happy that we could not get exemptions in these cases; many of the regents were not happy that they could not get those exemptions for the faculty, but we went along with the law. We have to follow the law. When I had to give this news to my faculty, I had to explain to them that it was the Legislature who wrote the law with furloughs. It is the policy that we have to follow.

When we are looking at this resolution again, we have to ask: What comes next? What would this Legislature want to do to improve our education? This resolution is not just a matter of correcting a relationship between the Board of Regents and the Legislature, but whatever policies are passed by the Legislature, those have to be implemented on our campuses. Those have to be implemented and carried out by faculty. We are the ones most affected, so when we hear claims, especially from the lobbyists in this case, about how this will improve education, we ask: How? How would you measure educational outcome? [Allotted time was exceeded.]

Chair Miller:

If you have any additional remarks, please submit them in writing.

Mark W. Doubrava, M.D., Chair, Board of Regents, Nevada System of Higher Education:

I am the Chair of the Board of Regents, and I also represent Regent District No. 7 in Las Vegas. I was elected in 2010 and re-elected in 2016; my term expires in 2022. I am here today to testify in opposition to S.J.R. 7.

At the outset, I would like to reaffirm the respect the Board of Regents has towards this Committee and the entire Nevada Legislature. The Board is ready and willing to continue working and collaborating with the Legislature on the important challenges facing higher education. As this Committee is aware, the very issues now presented by S.J.R. 7 were debated and discussed by the Legislature for nearly four years and ultimately became Question No. 1 on last year's ballot. The constitutional amendments presented by Question No. 1 sought to change 156 years of Nevada history. The people of Nevada rejected those changes. This occurred only five months ago. Our democracy mandates that the collective wisdom of the voters be respected.

Over the past few years, our two major universities have achieved Carnegie R1 research status [Carnegie Classification of Institutions of Higher Education, "Doctoral universities – Very high research activity" classification]. We have two thriving medical schools in southern and northern Nevada. We have a top-tier law school and a nationally renowned research institute. We also have a state college, we have a new chancellor, and we have two new presidents at our two major universities. Just today, we completed the search for our new president at Nevada State College. In fact, we have the most diverse group of presidents leading our institutions in our state's history. Four new regents joined the Board of Regents just a few months ago. We are at a pivotal time for our students and have new leadership at every level.

Senate Joint Resolution 7 does nothing to improve higher education in Nevada. It does nothing to advance research; it does nothing to improve workforce development or our communities. Most importantly, it does nothing to help students, the delivery of instruction, the growth of campuses, and the retention of top faculty. Rather, this measure creates a cloud of uncertainty, significantly lowers the morale of our faculty and staff, and impedes our short- and long-term strategic goals and planning. [Allotted time was exceeded.]

Chair Miller:

If you have additional comments, please submit them.

[There were no more callers in opposition.]

We have someone here in the room to testify in opposition.

Kent Ervin, Vice President and Legislative Liaison, Nevada Faculty Alliance:

The Nevada Faculty Alliance (NFA) is the association of faculty at NSHE colleges and universities statewide. We are affiliated with the American Association of University Professors, which advocates for academic freedom and shared governance. The NFA appreciates the intent to reform NSHE and its relationships with the Legislature, and we support strong accountability, including A.B. 416, the audit bill.

The fundamental confusion about Question No. 1 was that the ballot said at the top that the election and duties of the Board of Regents would be removed from the *Nevada Constitution*, but then it said nothing would change with the Board of Regents. There was no good answer for exactly what changes could be expected in the future, so both proponents and opponents were left to speculate. Senate Joint Resolution 7 has that same fundamental problem.

I would like to point out two issues we have with the current bill language. First, S.J.R. 7 removes the clause about academic freedom that was in Question No. 1. The language of that clause, unfortunately, did not follow the accepted meaning of academic freedom and potentially would have allowed increased political meddling in teaching and scholarship—but the concept is very important. We have suggested a much clearer statement for the protection of academic freedom and a corresponding whereas clause [[Exhibit G](#)]. Please see our submitted materials [[Exhibit H](#), [Exhibit I](#), and [Exhibit J](#)].

The second issue is with the whereas clause in S.J.R. 7 that states: "WHEREAS, Amending the Nevada Constitution to remove the Board of Regents' constitutional status will not repeal, either expressly or by implication [. . .] the existing statutory provisions that provide for the voters to elect the members of the Board of Regents" [page 4, line 40]. That is technically true, but it is misleading because the whole point of S.J.R. 7 is to allow such changes in the future. This whereas clause should be deleted or expanded to explicitly say that future Legislatures could change the method of selection and the duties of the Board of Regents. That is a fair statement to voters. Thank you very much.

Chair Miller:

With that, we will close testimony in opposition and open testimony in neutral. Is there anyone who wishes to testify as neutral? [There was no one.] I will close testimony for neutral.

Senator Dondero Loop, do you have any closing remarks?

Senator Dondero Loop:

I would like to thank the Committee for the wonderful conversation today and for the great questions. I would like to thank Mr. Hardy and Ms. Schafer for joining me, as well as Assemblyman Roberts. With that, I urge your support. Thank you very much.

Chair Miller:

Thank you, Senator, it is good to see you here. I will close the hearing on S.J.R. 7.

The next item on our agenda is public comment. We will take up to 30 minutes of public comment. Each person will have two minutes to speak on something that is under the purview of this Committee. Is there anyone who would like to make public comment? [There was no one.] Let us give it a few moments for anyone wishing to call in. We know we are about one minute ahead. Has anyone called in? [There was no one.] I will go ahead and close public comment.

We will have a meeting on Tuesday, May 4, 2021. We are taking our Committee pictures, so please be here at 3:45 p.m. so that we are able to take pictures before beginning our meeting. With that, we are adjourned [at 5:03 p.m.].

RESPECTFULLY SUBMITTED:

Jordan Green
Transcribing Secretary

APPROVED BY:

Assemblywoman Brittney Miller, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is written testimony dated April 29, 2021, submitted and presented by Hawah Ahmad, representing Clark County Education Association, in support of Senate Joint Resolution 7.

[Exhibit D](#) is a letter dated April 29, 2021, submitted by John Vellardita, Executive Director, Clark County Education Association, in support of Senate Joint Resolution 7.

[Exhibit E](#) is written testimony dated April 29, 2021, submitted by Christopher Daly, Deputy Executive Director, Government Relations, Nevada State Education Association, presented by Alexander Marks, Communications Specialist, Nevada State Education Association, in opposition to Senate Joint Resolution 7.

[Exhibit F](#) is written testimony dated April 27, 2021, submitted by Amy Pason, Chair, Executive Board, Faculty Senate, University of Nevada, Reno, in opposition to Senate Joint Resolution 7.

[Exhibit G](#) is a proposed conceptual amendment to Senate Joint Resolution 7, submitted by Kent Ervin, Vice President and Legislative Liaison, Nevada Faculty Alliance.

[Exhibit H](#) is a letter dated March 1, 2019, regarding Assembly Joint Resolution 5 of the 79th Session, submitted by Kent Ervin, Vice President and Legislative Liaison, Nevada Faculty Alliance, in opposition to Senate Joint Resolution 7.

[Exhibit I](#) is a letter dated May 19, 2020, to Adrian Havas, President, Nevada Faculty Alliance, signed by Anita Levy, Associate Secretary, American Association of University Professors, submitted by Kent Ervin, Vice President and Legislative Liaison, Nevada Faculty Alliance, in opposition to Senate Joint Resolution 7.

[Exhibit J](#) is a document titled "1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments," submitted by Kent Ervin, Vice President and Legislative Liaison, Nevada Faculty Alliance, in opposition to Senate Joint Resolution 7.