MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS

Eighty-first Session
May 4, 2021

The Senate Committee on Legislative Operations and Elections was called to order by Chair James Ohrenschall at 3:41 p.m. on Tuesday, May 4, 2021, Online and in Room 2149 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator James Ohrenschall, Chair
Senator Roberta Lange, Vice Chair
Senator Heidi Seevers Gansert
Senator Carrie A. Buck

COMMITTEE MEMBERS ABSENT:

Senator Nicole J. Cannizzaro (Excused)

GUEST LEGISLATORS PRESENT:

Teresa Benitez-Thompson, Assembly District No. 27
Tracy Brown-May, Assembly District No. 42
Jason Frierson, Assembly District No. 8
Robin L. Titus, Assembly District No. 38

STAFF MEMBERS PRESENT:

Michael Stewart, Policy Analyst
Bryan Fernley, Counsel
Barbara Young, Committee Secretary

OTHERS PRESENT:

Paige Barnes, Nevada Association of School Boards
Wesley Harper, Nevada League of Cities and Municipalities
Randy Robison, City of Las Vegas
Mark Wlaschin, Deputy Secretary for Elections, Office of the Secretary of State

Elizabeth Davenport, American Civil Liberties Union of Nevada
Patricia "Ace Patrick" Unruh, Nevada Statewide Independent Living Council
John Piro, Clark County Public Defender's Office
Jennifer Richards, Chief Elder and Disability Rights, Aging and Disability Services Division, Department of Health and Human Services
Doralee Martinez, Nevada Disability Coalition
Jeffrey Beardsley, Nevada Commission for Persons who are Deaf, Hard of Hearing or Speech Impaired, Office of the Governor

CHAIR OHRENSCHALL:
The meeting is now open, and I am requesting a Committee introduction of Bill Draft Request (BDR) R-1148.

BILL DRAFT REQUEST R-1148: Provides for the creation of an interim study of the creation of innovation zones. (Later introduced as Senate Concurrent Resolution 1).

SENATOR LANGE MOVED TO INTRODUCE BDR R-1148.

SENATOR SEEVERS GANSERT SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR OHRENSCHALL:
We will close the hearing on BDR R-1148 and open the hearing on Assembly Bill (A.B.) 385. The bill will be presented by Assemblywoman Teresa Benitez-Thompson.

ASSEMBLY BILL 385 (1st Reprint): Revises provisions relating to compensation received by public officers and employees. (BDR 23-52)

ASSEMBLYWOMAN TERESA BENITEZ-THOMPSON (Assembly District No. 27):
This bill is good public policy and deals with the contracting of public employee positions. Most of the employment positions within public agencies are classified jobs with defined steps, grades and benefits. They are transparent and predictable. In public agencies, contracted employment positions are typically the top two tiers of leadership within the organization. They are demanding jobs

where leadership often serves as the outward face of the organization and frequently interacts with public boards and elected officials. These are arduous, demanding jobs. The high salaries of these jobs reflect the sophisticated skill sets of these individuals. As a whole, public bodies and local government's contract routine salaries with benefits and 99.9 percent of our public boards and public bodies are engaging in good, transparent processes. However, over the past five years I have observed a trend among certain public bodies to create outrageously generous benefits and bonuses within these contracts. I have written this bill to end such practices and prevent future public bodies from perpetuating these trends.

Assembly Bill 385 protects public tax dollars from being encumbered as "golden parachutes" by a handful of high-salaried individuals. This bill will ensure transparency and good public stewardship of public dollars. The goal is to prevent a public body from approving requests which would ordinarily not occur.

One specific example of bonuses is they must be tied to performance, ensuring the public body indicates how performance will be evaluated and meet all standards and metrics set forth in the contract. In January 2021, we saw Boards award bonuses written into contracts with guaranteed amounts without performance metrics attached. These bonuses were a guaranteed amount of over $100,000 annually.

Another part of the bill relates to termination or resignation of employment of an officer while an investigation relating to employment is pending. The officer will not be paid any additional severances or bonuses. The goal is if there are questions about a person's conduct and an investigation is pending; the public body deserves to know the outcome and results of that process before being obligated to pay bonuses or any additional payments beyond the last day worked. I will describe current procedures in a hypothetical scenario. If there were questions about the culture of an agency, a survey could reveal alarming concerns from the employees at the ground level of the agency. Stemming from those concerns, a formal sexual harassment process could be initiated against an officer. If the officer resigned during the investigation, the public body would still be under contract to award any bonuses and severance pay negotiated in the employment contract. All of those monies would need to be paid without knowledge of the outcome of the fact-finding investigative process. Tax payers would pay.

Upon the termination of employment of an officer or an employee of the public body, any portion of accumulated annual leave, comp time or sick time must be paid. To be clear, we are not referring to anything an employee earned through the course of work or any time banked not counted as severance pay. The employee would still be entitled to any pension or retiree benefits through the Public Employee Retirement System (PERS). The employee would be eligible to bring a cause of action for wrongful or unlawful acts relating to his or her termination. The public body could agree to pay the cost of purchase credit for service on behalf of the officer; we have seen that happen. It is typically in line with practices that the public body is otherwise doing, but we wanted to be sure to put a bright line on those things. To be clear, this tends to be in the higher leadership positions. These are not contracts pursuant to collective bargaining agreements. Those fall outside of this bill, and this does not apply to the Nevada System of Higher Education (NSHE). We are taking a surgical approach to some bad practices. Now is the right time to pass this bill. This is an emerging trend, and we have the opportunity to make this change.

Regarding resignations, we see emerging trends in certain areas I will highlight for the legislative record. As a sponsor of this bill, we are trying to alleviate some of these outliers. In this scenario, a CEO who resigned received three months of severance pay and three months of medical coverage while under internal investigation. It was later detected that 13 policies and procedures were violated and at least one of them dealt with harassment, violence, retaliation or discrimination. The same CEO was also awarded a bonus of over $100,000 shortly after the conclusion of the investigation. If the board had that public information, contractually, they would not be obligated to pay out the monies as the officer was resigning.

Concerning bonuses, in January 2021, a CEO received a bonus of 35 percent of his pay which amounted to over $100,000 annually with no goals or guidelines in place for earning the bonus. Bonuses should be based on metrics and should not be contractually written in as an automatic annual payment.

It is typical for all employees of a public body to have a policy regarding mileage reimbursement or the use of a motor pool car. Those are two practices we see most often. In some of the leadership positions, we are seeing $800 or $900 a month car allowance payment in addition to access to the motor pool and mileage reimbursement. In section 1, subsection 1 of the bill provides that if the public body has a policy for all employees in a similar position, such as mileage

reimbursement or access to the motor pool, additional types of car allowances could not be written into the contract.

Another example of an excessive fringe would be a $5,000 health and wellness allowance above and beyond any health insurance coverage. A public body can have healthcare benefit policies and encourage health and wellness by negotiating a gym membership discount for employees. An officer asking through their contracted employment for an additional $5,000 gym membership would be excessive. Guard rails must be place on what public boards can approve because we want to maintain good stewardship of tax payer dollars and transparency in the process.

SENATOR SEEVERS GANSERT:
You had mentioned the top two tiers receiving benefits. I see contracts for the heads of organizations and do not want it to be encouraged to offer those benefits to multiple tiers.

ASSEMBLYWOMAN BENITEZ-THOMPSON:
In school districts, assistant superintendents can be specialty-contracted positions, which reside outside of collective bargaining. In those instances, the superintendent and assistant superintendent would both be contracted positions. In larger organizations, counties which have a second level of management tend to be a group with similar contracts or negotiated contracts, even though they fall outside of collective bargaining.

SENATOR SEEVERS GANSERT:
My concern is if the public body wants to offer a benefit to someone who is at the top, but is unable to do so unless the benefit is offered to two or three other employees below them. Potentially, it might encourage to extend that benefit further instead of reducing it. Sometimes there is a significant salary, car allowance, housing allowance, fitness and so on. I totally agree with the need for transparency.

ASSEMBLYWOMAN BENITEZ-THOMPSON:
It is much more likely to go in the other direction. Most agencies have policies that make sense. They will act in their ordinary practice and remove the outlier.

SENATOR SEEVERS GANSERT:
Investigations can take a long time. Will wages be withheld as long as the investigation is underway?

ASSEMBLYWOMAN BENITEZ THOMPSON:
The goal is making sure the public body has the information needed before a decision to disperse funds is made. The idea was to create a pause. If an investigation comes back with a clean report, the public body is free to disseminate all monies owed. If an investigation concluded and the officer was held accountable for accusations made, the public body would be able to make different decisions. For this reason, the public body wanted to pause on what is negotiated on the front end.

SENATOR SEEVERS GANSERT:
I am not sure how all of this would work because withholding wages is done upon termination until there is an investigation. Sometimes a deal is cut with a bad actor and the officer leaves and moves on. All of the facts have not been gathered and the investigation has not concluded. If there is a not guilty verdict at the conclusion of the investigation, the officer may not have been paid for months. I do appreciate the intent of the bill, which is setting up frameworks for new contracts. You may have potential employees who would not consider going to certain municipalities or a body because the terms of the agreements are too restrictive.

ASSEMBLYWOMAN BENITEZ-THOMPSON:
The pay for these positions is very high, $250,000 and above. They can still negotiate bonuses as long as they are tied to metrics. I do not think public bodies want the type of person who could be negotiated in at the front end. It has become a trend.

SENATOR SEEVERS GANSERT:
Transparency is important when being paid a high salary as well as all of these silos of funds. False allegations can be made and that is of concern to me. I do not understand why the vetting of individuals is not thorough. Many times there have been records of certain allegations, but they were not investigated in advance, which would have alleviated the problems that occurred.

SENATOR BUCK:
In section 1, subsection 4, applies to officers, presidents and department chairs of higher education were written out. Why was NSHE written out?

ASSEMBLYWOMAN BENITEZ-THOMPSON:
Initially, in the drafting of this bill we did contemplate having higher education included. I realized through the research of the bill, it is just a bit more difficult to write this kind of law for higher education. It did not fall into this piece of legislation.

SENATOR BUCK:
I have researched superintendent's contracts across the United States. What I see is this bill does nothing that cannot be circumvented. Instead of a $3,000 Peloton, they could easily write in $5,000.

ASSEMBLYWOMAN BENITEZ-THOMPSON:
A great deal of concern has been expressed from local government. Finally, the language of the bill is well stated. We are drawing a bright line as to what is in and what is out in compliance to the law. There are no questions as to what is negotiated in contracts.

SENATOR BUCK:
Do you think it will keep us competitive with superintendents? It is highly competitive for great candidates.

ASSEMBLYWOMAN BENITEZ-THOMPSON:
I believe so. We can attract qualified candidates at $350,000 with PERS and health benefits. In the State, we have a cap on salaries which states employees cannot earn more than the Governor. Yet, we have some of the most qualified and dedicated employees in our State earning $90,000 to $120,000 per year who have been working for our State for 20-plus years doing amazing work with huge budgets. You can find qualified candidates without having to negotiate unreasonable bonuses and severances. It is more of a corporate mentality, which is contrary to how we think about the use of public dollars.

SENATOR BUCK:
I am always cautious because I have reviewed many employment contracts of big districts across the Nation. Do you have examples of other state's policies that restrict this more?

ASSEMBLYWOMAN BENITEZ-THOMPSON:
There are no other state examples. This research was done in our State concerning practices seen regionally, which I do not think should take place. This bill is good public policy, and it is where we want to land. It does not tie anyone's hands too much but it does address the outliers, which we will regret not taking care of at this time.

PAIGE BARNES (Nevada Association of School Boards):
We represent all the Nevada Association of School Boards (NASB) in the State. We are here in support of A.B. 385 and believe it is a fair and reasonable approach to contracting. It provides protection to school boards when negotiating contracts. We especially support the provisions which prevent contracts from being paid out in the event an employee resigns during an ongoing investigation. This protects the public, the board and tax dollars. As Assemblywoman Benitez-Thompson stated, the bill has a number of transparency provisions. One prevents the payout of bonuses and severance pay if there is an ongoing investigation, and another is awarding bonuses during public meetings if metrics are met. The NASB appreciates the hard work Assemblywoman Benitez-Thompson brings to ensure greater transparency and accountability to the process.

WESLEY HARPER (Nevada League of Cities and Municipalities):
The League is strongly in opposition to A.B. 385. We appreciate the discussion, the work of the sponsor in bringing this bill forward and the distinguished members of the Senate Committee on Legislative Operations and Elections for hearing the bill. While seeking a reasonable outcome, this bill is constructed to create wide-ranging, negative consequences. Member municipalities are in a national competition for the Country's very best talent. This proposed legislation puts our municipalities at an avoidable competitive disadvantage. The legislation is targeting rare circumstances. There has been no evidence presented of an emerging trend. Moreover, and more troubling, creating viable and responsive employment agreements with high-performing officers and employees is the very definition of a matter of local concern. The manner and method of how to contract with municipal staff primarily effects and impacts areas located within each municipality. On this basis alone, the bill is an overreach by prescribing how public bodies secure the talent needed to innovate, deliver and provide services upon which every Nevadan depends. We hope the Committee assesses this bill with a keen scrutiny and respects the purview of local governments to properly govern according to our residents direct and unique needs.

RANDY ROBISON (City of Las Vegas):
We are in opposition to a specific portion of the bill, section 1, subsection 1, paragraph (a), regarding fringe benefits. We have had the opportunity to talk with the sponsor a couple of different times in a couple of different ways about this issue. Our counsel feels strongly that this will ultimately limit flexibility when competing for the talent to lead our organization. In discussions with the sponsor of the legislation, we appreciate the change from the original proposal to the language before you today. It is better and headed in the right direction. Should the bill proceed, it could be narrowed even further to focus on the very top spot in our organization, as opposed to other tiers. I also associate with Mr. Harper's comments from the League in terms of letting us reside with those who have been duly elected at the local level to compete for those who want to run their organizations. We have no issue with the remainder of the bill.

ASSEMBLYWOMAN BENITEZ-THOMPSON:
This bill is a step in the right direction. We have to act now before we get into habits and practices that make change more difficult in the future. I respect the cities enormously. I know we have a philosophical disagreement on the fringe, but I believe there need to be guard rails on the fringe.

CHAIR OHRENSCHALL:
We are opening the hearing on A.B. 390 and are fortunate to have Assemblyman Jason Frierson here to present the bill.

ASSEMBLY BILL 390: Revises provisions relating to elections. (BDR 24-1038)

ASSEMBLYMAN JASON FRIERSON (Assembly District No. 8):
Assembly Bill 390 is a straightforward bill which requires defendants in a contested election be notified when a contest has been filed. Currently, if an election is contested, the contester has no obligation to notify the defendants that such a contest has been filed with the appropriate authority. Typically, in civil cases, a defendant is given every reasonable opportunity to be notified if such a case has been filed. This is not an uncommon practice in election contests. Currently, per data from the National Conference of State Legislatures, at least 14 other states expressly require defendants in an election contest to be notified. I want to be clear, A.B. 390 does nothing to change the current process and procedures which exist for challenging an election, other than simply notifying the defendant. It ensures election contests are treated similarly to civil cases and give defendants reasonable time to prepare a

defense. Essentially, there is an expectation if a contest is being challenged, the individual who is being challenged will be notified. If you ask the Secretary of State's Office, it is assumed the person who contested the election notified the subject and the contester. Oftentimes, no one notified the individual being contested. This is an effort to support and ensure if an election is being contested, the defendant knows the election is being challenged.

I will present the provisions of the bill. Section 1 addresses the process for a candidate at any election or any registered voter to contest the election of a candidate, except for the office of United State Senator, Representative in Congress, Office of the Governor, Lieutenant Governor, State Assembly Member, State Senator, justice of the Supreme Court or judge for the Court of Appeals. Under existing law, to contest an election a written statement of contest must be filed with the district court. This bill simply adds to section 1, subsection 5—a contester must notify the defendant that a statement of contest has been filed. Section 2 addresses the process for a candidate or registered voter to contest an election for the office of State Assembly and State Senate. A statement of the contest must be filed with the Secretary of State under existing law, and A.B. 390 adds language to section 2, subsection 1 to include the contestant and the Secretary of State shall notify the defendant that a statement of contest has been filed. Section 3 addresses the process for a candidate or registered voter to contest the election of the office of Governor, Lieutenant Governor, justice of the Supreme Court or judge of the Court of Appeals. Similarly, under existing law a statement of contest must be filed with the Secretary of State, and A.B. 390 adds language to include a contestant and the Secretary of State shall notify the defendant that a statement of contest has been filed. In conclusion, A.B. 390 is simply an effort for anyone whose election is contested to be afforded the benefit of being notified.

SENATOR SEEVERS GANSERT:
It makes sense to give notice to the defendant. Will there be regulations at the different entities to determine what that will look like? It is broad language.

ASSEMBLYMAN FRIERSON:
It is broad language and it is not intended to create unreasonable new burdens other than notifying the party. It only adds the factor that they must be notified. It would not preclude the Secretary of State from coming up with specific measures which would satisfy whether it be personal service or a certified

letter. It merely requires there be an effort made to notify the individual whose contest is being challenged.

SENATOR SEEVERS GANSERT:
Again, the language is broad. Is there a timeline on this? Basically, the election could be contested and the defendant would not know for months.

ASSEMBLYMAN FRIERSON:
It is broad by design. This is not a civil law suit or a criminal complaint. We cover the lack of specificity with respect to how to notify by requiring both the Secretary of State and the person contesting the election provide the notice. To the extent it impacts the timeline with the State Legislature, we govern ourselves and we govern that process. We can create timelines and give additional time for someone who says this occurred two months ago, but who was just notified of it. Either the court, the Secretary of State or the Legislature would be able to take that into consideration when setting up a timeline for responses.

CHAIR OHRENSCHALL:
If this bill passes into law, could the Secretary of State's Office construct regulations as to what kind of notice there would be, timeframes for notice and type of mail delivery system—whether it be regular mail, certified mail or registered mail?

MARK WLASCHIN (Deputy Secretary for Elections, Office of the Secretary of State):
We certainly would make sure that any regulations which pertain to the bill would cover the timelines. Specifically, we would ensure the contestant as well as the agency are clear in understanding the specifics of the bill. It would begin at the start of the legislative session, if someone contests the election in accordance with the statutes. We would make sure those regulations are specific enough to allow an appropriately timed notification.

SENATOR BUCK:
Why does this amendment not define what qualifies—certified mail, cheapest mail method or even how the outgoing mail would be addressed?

ASSEMBLYMAN FRIERSON:
Election contests are different than other forms of litigation or challenges. The provisions of this bill are not proposing an attorney needs to be hired to comply. We are seeking to find a balance that allows an average citizen or an average candidate be able to successfully begin the process without unduly burdening anyone. This bill simply says, if an election is going to be challenged, tell the defendant.

SENATOR SEEVERS GANSERT:
I do appreciate A.B. 390 being brought forward and the Secretary of State's Office weighing in on the process. Without having to engage an attorney, individuals would not be precluded from moving forward in contesting an election.

CHAIR OHRENSCHALL:
The hearing is closed on A.B. 390. Assemblywoman Robin Titus will be presenting Assembly Joint Resolution (A.J.R.) 1.

ASSEMBLY JOINT RESOLUTION 1 (1st Reprint): Proposes to amend the Nevada Constitution to add and revise terms relating to persons with certain conditions for whose benefit certain public institutions are supported by the State. (BDR C-477)

ASSEMBLYWOMAN ROBIN TITUS (Assembly District No. 38):
I am presenting A.J.R. 1, which proposes to amend the Nevada Constitution. This resolution is straightforward. It changes four words in the Nevada Constitution. Some may wonder why we need to change the Constitution to address four words: insane, blind, deaf and dumb. These words are found in Section 1, Article 13 of our Constitution. This section requires the State to care for certain populations with disabilities or those who suffer from mental illness. The section reads, "Institutions for the benefit of the Insane, Blind and Deaf and Dumb ... shall be fostered and supported by the State." This joint resolution proposes to amend the Nevada Constitution to revise the descriptions of the persons who benefit from these institutions. I am aware when the Nevada Constitution was written, different terminologies were used to describe persons with disabilities or mental illness. However, more than 156 years after Nevada was admitted to the Union, it is time to give these words a critical look. We should change them to contemporary language which is not deemed to be discriminatory or narrow. I propose we revise this terminology in the following

manner, from the insane—to persons with a significant mental illness; from the blind—to persons who are blind or visually impaired; and from the deaf and dumb—to persons who are deaf or hard of hearing.

The idea to change this language in our Constitution came from one of my constituents, Mr. Andrew Campbell. He teaches Special Education at Churchill County Middle School in Fallon. Most of his students have severe and profound disabilities. Mr. Campbell also teaches American Sign Language (ASL) in an afterschool program and is aware of the needs of persons who are deaf or hard of hearing. He describes them as bright, dedicated people in our society who are bankers, teachers or engineers. His own grandfather belonged to this population being one of Boeing's first hundred employees who designed an aircraft. I am grateful to Mr. Campbell who brought this to my attention.

I would like to explain in more detail the amendment I propose. First, I want the new terms to begin with persons. We must stop categorizing people who suffer from an illness or disability by emphasizing the illness or the disability, such as the blind or the deaf. Instead, these are all individuals who happen to have an illness or a disability. First and foremost, they are persons. Second, referring to persons who have a hearing loss as dumb is offensive and must cease to be used. Additionally, many people in our society are not completely deaf, but may suffer from different degrees of hearing loss. Therefore, the definition in the Constitution is too narrow and must be changed to persons who are deaf or hard of hearing.

Insane, is another one of those derogatory terms I recommend replacing. We know words matter and when individuals are stigmatized by such terms it may lead to negative results. Research shows that stigmatizing persons with significant mental illness may create barriers for them. They may face discrimination and prejudice when renting homes, applying for employment and accessing mental health services. Stigmatized people are also less likely to seek treatment, which may exacerbate the condition. Using the term insane in our Constitution for people who suffer from mental illness perpetuates the stigma. The term insane needs to be replaced with the more dignified term persons with a significant mental illness.

Blind is not necessarily a discriminatory term, but it is too narrow. If a person is blind, he or she may suffer a complete or nearly complete vision loss; however, this does not include people with vision impairment, which may cause difficulty

with daily activities and cannot be corrected with lenses. Persons with visual impairment may be unable to walk or read without adaptive training or use of assistive technology. Contemporary training and assistive technology is for all people who have some form of visual impairment; therefore, this language should be updated. I propose the term persons who are blind or visually impaired.

In closing, I believe we must do a better job in making sure we do not discriminate and stigmatize individuals with disabilities or mental illness. A first step is to ensure that no discriminatory, stigmatizing or derogatory language is in our Nevada Constitution and A.J.R. 1 will provide for that.

SENATOR LANGE:
When I read this bill, I could not believe it! We have heard many bills dealing with discrimination this Session. I thank you for taking the time to find this and to fix this language. Words do matter and we need to value each person in our community.

ASSEMBLYWOMAN TITUS:
I appreciate that. I have had people reach out to me and tell me we have taken this language out. We have not taken this language out of our Constitution. It requires a process, which we are finally addressing.

SENATOR SEEVERS GANSERT:
Thank you for bringing this forward. When we read this everyone was appalled and in disbelief that this language was still in our Constitution. I had a question about persons with significant mental illness. In contemporary speech, we are beginning to use language which implies behavioral and emotional health issues, versus mental illness. We were using the term mental health, but its use is now waning.

ASSEMBLYWOMAN TITUS:
To finalize this terminology, we worked through multiple layers with multiple people in the Interim because this was a prefiled bill. Finally, I landed on language submitted to us by the Aging and Disability Services Division (ADSD). They felt this language was the most appropriate to go through a couple of sessions, which is what this would need to do without changing it. This is the language Jennifer Richards, the Director of ADSD, had come up with and we all decided upon it.

ELIZABETH DAVENPORT (American Civil Liberties Union of Nevada):
We are in strong support of A.J.R. 1. Removing outdated, derogatory and offensive language from our State's Constitution makes sound policy. Legal terms must be updated. Just as Assemblywoman Titus explained these terms are institutionalized and continuing to allow them to be used and persist in our society perpetuates negative social stigmas. The American Psychology Association's Committee on Disability Issues has emphasized the need to avoid offensive expressions and recommends policy that places people, not the disability, first. In 2012 the United States Congress removed the derogatory term lunatic from the United States Constitution. Nevada should follow those footsteps.

PATRICIA (ACE PATRICK) UNRUH (Nevada Statewide Independent Living Council):
I am a person with multiple disabilities living in Sparks, Nevada. It is important to remember that person-first language needs to replace offensive terminology which has no business in the Nevada Constitution. Words do matter. My life changed dramatically when people began to see me as a person first who happens to have disabilities. It has made an enormous impact on the quality of my life. Changing our language to be respectful helps eliminate the negative stigmas that have been imposed on people with disabilities. I want to thank the Committee for bringing this bill forward, and I stand in strong support of A.J.R. 1.

JOHN PIRO (Clark County Public Defender's Office):
As lawyers, we understand all too well words have power and language is important. The language Assemblywoman Titus is seeking to change in this bill is both stigmatizing and detrimental to people in our State. We thank her for bringing this bill forward and seeking to remove this language from the guiding document of our State. I strongly urge support of A.J.R. 1.

JENNIFER RICHARDS (Chief Elder and Disability Rights, Aging and Disability Services Division, Department of Health and Human Services):
I have submitted written testimony (Exhibit B). I also echo the comments of the other callers and reiterate how critical this step is for the disability rights movement. There is a paradigm shift from viewing persons with disabilities—objects of charity, to full and equal members of society with fundamental rights who deserve respect and acceptance as part of human diversity. We must respect these individuals as part of our community and not use pejorative or

insensitive language. We urge your support of A.J.R. 1 and thank Assemblywoman Titus for collaborating on this measure and bringing it forward.

DORALEE MARTINEZ (Nevada Disability Coalition):
I am calling in support of A.J.R. 1. I want to say ditto to what the other callers said. People with disabilities need to be viewed as a person first because it really does make a difference.

JEFFREY BEARDSLEY (Nevada Commission for Persons who are Deaf, Hard of Hearing or Speech Impaired, Office of the Governor):
I want to support what the others have said prior to me. We need to clean up this language and have needed to do to this for years. From my experience, when people label me as hearing impaired, I find that ironic. I always challenge them by saying, "You are deaf impaired. Do you sign?" They do not, so it is a way for me to educate them about language. In our community we do consider ourselves deaf, hard of hearing and deaf-blind because it matches our identities. We also support Assemblywoman Titus's comments.

ASSEMBLYWOMAN TITUS:
I want to acknowledge the people who have called in and voiced support and those who brought this language to my attention. This is merely a first step. If you google the word "insane" from the Nevada Constitution, it shows up 67 times. We need to begin with the foundation and the words within our Constitution. Hopefully, we will get this bill back next Session, pass it here and move forward.

CHAIR OHRENSCHALL:
We will open the hearing on A. B. 421. Assemblywoman Tracy Brown-May will present the bill.

ASSEMBLY BILL 421: Establishes the preferred method of referring to persons with certain conditions in the Nevada Revised Statutes and the Nevada Administrative Code. (BDR 17-1037)

ASSEMBLYWOMAN TRACY BROWN-MAY (Assembly District No. 42):
I spent the last 20 years of my career as a disability support advocate before becoming a Legislator. This measure in particular should be very simple, and I am grateful to have the opportunity to follow Minority Leader Titus, as the issue is quite similar. As we begin, I would like to extend credit to the members of the

disability community who have brought these issues to our attention. The good works of the Nevada Center for Independent Living, working with other coalitions, brought together diverse members of our community to consider how to help people who are diagnosed with disabilities or different abilities than many others. Mr. Beardsley is here to present with me. He is a member of the Nevada Deaf Commission.

We had input from the Nevada Governor's Council on Developmental Disabilities with regard to this language, as well as the National Alliance on Mental Illness (NAMI). Words do matter and how we refer to each other matters, so the words and labels we use in our statute have a profound effect on how we address each other. Refusing to use those terms is why we are here today. For the people who are diagnosed with mental illness, replacing offensive terms in our statutes is the first step to reducing the stigma associated with any mental health condition. We need to remove discriminatory terminology and begin to shift the focus toward treatment and recovery. The same is true for our Nevadans who are deaf or hard of hearing. Many of the terms we use to refer to members of our community are offensive, inaccurate and clearly outdated. The negative terminology continues to persist in our law and in popular culture. The label deaf and dumb is totally inaccurate. The National Association for the Deaf (NAD) calls this a relic of medieval England. The NAD also notes that the Greek philosopher Aristotle used the label deaf and dumb because he thought that deaf people were incapable of learning, which is untrue. It is time we change our language. Hearing impaired and hearing disabled can also be offensive terms. As Mr. Beardsley stated earlier, perhaps we are the ones disabled. These terms focus on what people cannot do by establishing a social norm which addresses impairment. I would also counter that people do not suffer with a disability. Many people are born to be differently abled, but do not suffer with that diagnosis.

I will go through the sections of the bill. Section 1 contains two key provisions. Subsection 3 of section 1 makes specific reference as to what is considered the preferred and respectful language in the *Nevada Revised Statutes* (NRS). For people with mental illness, endless words and terms are not preferred. Intentionally, the term insane was not addressed because it can be used in criminal litigation as a diagnostic. Subsection 4 requires that respectful language and sentence structure be used for all of our NRS references relating to people who are deaf or hard of hearing. Additionally, it specifies the terms not preferred, should be avoided. We have done this previously in our history by

removing the word retarded from many of our statutes. In a similar manner, section 2 of A.B. 421 specifies that our State regulations codified in Nevada Administrative Code (NAC) must also use respectful language and sentence structure when referring to people with mental illness or people who are deaf or hard of hearing. Finally, section 3 specifies that the Legislative Counsel update the wording changes, reprints and supplements of both the NRS and NAC to conform to the provisions of this bill. Mr. Jeffrey Beardsley will provide additional remarks relative to this.

MR. BEARDSLEY:
As Assemblywoman Brown-May just mentioned, I agree, we have lived with years of stigma throughout history. I have experienced depression from society based on how deaf people are viewed as being mentally limited and limited in our ability to function. The way language is used reflects misunderstandings of what disability means. We in the disability community, know we have disabilities, but we can do anything—in my case, except hear. We know there are deaf people working in State agencies. There are deaf policeman, deaf firefighters and others working in many types of employment. Deaf people are an important part of our world. We need to build a bridge and support each other. Again, hearing impaired is an offensive term for our community which has been used for years. When I challenge people by saying, "you must be deaf impaired," I make a point. I also ask hearing people; "Can you sign?" We must educate each other so we can move forward and have smooth communication. These days we have the technology available to improve communication so the deaf community and the hearing community have equal access. I have seen some improvement in that arena; however, the terminology must be changed so the language will always be respectful to the community of people with disabilities.

SENATOR SEEVERS GANSERT:
I want to thank you for bringing forth this Legislation and welcome you to the Senate.

SENATOR LANGE:
This is important legislation and I will repeat; "words do matter." Thank you for bringing this bill forward.

SENATOR OHRENSCHALL:
I noticed on page 2, there are words and terms preferred for use in NRS. It states persons with significant mental illness. Perhaps it is something we could address next session if A.J.R. 1 passes. We will have the statutes, which will be easier to amend next session.

ASSEMBLYWOMAN BROWN-MAY:
This bill provision was really about the two sections which govern people with the disability in NRS 435 as well as another chapter that governs residential support providers. We looked closely at the language in those areas, wanting to make sure it was encompassing all of our NRS as we made those revisions, so we could go back. That is why those two paragraphs are amended to preferred language. Whether or not there would be a severity attached to the mental illness, I look forward to going through it with that Constitutional amendment because it is different. The other piece in the Constitutional amendment you will not find here is the word "institution," which was originally written into the Constitutional amendment. The community of people who have intellectual and developmental disabilities would prefer never to be associated with an institution of any kind. I look forward to seeing where A.J.R. 1 goes. Those are good and positive changes, but not substantive to these chapters.

CHAIR OHRENSCHALL:
I do want to note there are letters of support on NELIS. One is from Robin Reedy, the Executive Director or NAMI Nevada (Exhibit C). The other is from Kari Horn. She is the Executive Director of the Nevada Governor's Council on Developmental Disabilities (Exhibit D).

SENATOR SEEVERS GANSERT:
When you look at the Constitutional language, it does say institutions and it is referring to the benefit of persons with significant mental illness. It is differentiated because it is related to institutions, and the State is doing something on the behalf of a person with mental illness. Since you have been a disability advocate, instead of the word institutions, what type of language should be used? I would like an acceptable word for institutions which would be acceptable for persons with disabilities.

SENATOR BROWN-MAY:
The word institution was not in the original A.J.R. 1. It came by an amendment later, and then went to vote. It is in the original constitutional language. The

pieces we are working to change are the way we are referring to people who have a diagnosis, not to eliminate the word institution. People with intellectual and developmental disabilities were not included in the original language, they were added in later. That was where the word institution came up as a word we needed to pay attention to. The State is working and has worked for a number of years to eliminate institutions in that way. Another word might be facility or an entity. We are working to support the interests of people with disabilities. It does not need to be a brick and mortar institution to get across the intent of the language in the Constitution.

SENATOR SEEVERS GANSERT:
Possibly, the word entity because it does not have to be a tangible place, rather organizations, people and infrastructure. If we are going to change the Constitution, we want to get it as close as we can to good recognizing it can be a moving target.

CHAIR OHRENSCHALL:
Maybe the terms entities or facilities or in-patient treatment facilities could be used instead of institutions. Institution, just the term makes me shudder. I do not hear it used often.

SENATOR LANGE:
I mentioned to Chair Ohrenschall that words matter when you go to a Constitutional amendment. We must be careful we are looking to the organizations and to the communities to make sure we have the correct words in our amendment to ensure it has the best chance of passing.

SENATOR SEEVERS GANSERT:
The world has changed so much. We need to find a word to replace institution which encompasses organizations, not just bricks and mortars. The word facility leads to the word institutions. We need an all-encompassing term without the negative connotation.

CHAIR OHRENSCHALL:
Possibly treatment facilities?

SENATOR SEEVERS GANSERT:
That term goes back to institutionalizing someone or putting them in a facility to stay, versus entities which may treat people as out-patients. The way the State

is trending, we tend to care for people and provide support services in-home or in-home facilities.

CHAIR OHRENSCHALL:
There are a lot of day-treatment centers and intensive out-patient centers.

MR. BEARDSLEY:
I have another comment to make. I want to emphasize hard of hearing people are all raised differently. I do not speak in the same way hard of hearing people may have been trained to speak. They may have some benefit of their hearing. I know some have cochlear implants, so they are able to hear. Some people do sign, but not all people who are hard of hearing sign. However, we work collaboratively in our community, both deaf and hard of hearing people. Society sees us as a collective even though we have had different experiences growing up. I just wanted to clarify that within the deaf and hard of hearing community there are similarities, but many differences.

CHAIR OHRENSCHALL:
Are there any closing comments?

SENATOR SEEVERS GANSERT:
I was able to reach out to Assemblywoman Titus and she was open to the change of the word institutions. She feels it is a good idea and wants to get the language correct. I suggested changing the word institutions to entities.

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

CHAIR OHRENSCHALL:
Being we have no public comment, we are adjourned at 5:20 p.m.

RESPECTFULLY SUBMITTED:

Barbara Young,
Committee Secretary

APPROVED BY:

Senator James Ohrenschall, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit Letter**	**Begins on Page**	**Witness / Entity**	**Description**
	A	1		Agenda
A.J.R. 1	B	1	Jennifer M Richards / Chief Elder and Disability Rights, Aging and Disability Services Division	Testimony in Support
A.B. 421	C	1	Chair Ohrenschall presented National Alliance on Mental Illness / Nevada	Robin Reedy Testimony in Support
A.B. 421	D	1	Chair Ohrenschall presented Governor's Council on Developmental Disabilities	Kari Horn / Testimony in Support