

Assembly

MINUTES

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LEGISLATIVE FUNCTIONS COMMITTEE - NEVADA STATE LEGISLATURE

58TH SESSION - MARCH 25, 1975

The meeting was called to order at 3:10 by Chairman Dreyer.

MEMBERS PRESENT: Mrs. Brookman
Mr. Mello
Mr. Jacobsen
Mr. Sena
Mrs. Wagner
Mr. Chairman

MEMBERS ABSENT: Mr. Bennett

SPEAKING GUESTS: Earl Oliver, Legislative Counsel Bureau
Audit Division
Assemblyman Benkovich
Assemblyman Dini
Assemblyman Ford
Assemblyman Getto
Assemblyman Murphy
Kate Butler
Barbara Silberling, Women's Lobby
Robin Morgan
Barbara Weinberg, American Association of
University Women
Assemblyman Heaney

Mrs. Brookman moved the minutes of the previous meeting be approved. This was seconded by Mr. Jacobsen and carried the committee unanimously.

Discussion began on AB 281 which:

Relieves Legislative Auditor of function of auditing certain groups which contract with Bureau of Alcohol and Drug Abuse.

Mr. Earl Oliver explained this bill. It is a bill requested by the Audit Division and is simply a language change. Rather than providing for a Legislative Audit to be performed, this bill would simply require an audit be performed. This would allow these contracts to be audited by the groups' own staff. It would broaden rather than restrict. He added that the Audit Division has yet to perform such an audit and that this is the only such provision in the present statutes so AB 281 would really be cleaning up the statutes. He added that the Audit Division would be able to review these audits whether they be staff audits or contracted audits. The form of audit would be fairly well standardized as the Audit Division has a manual in which they recommend procedure to contracted accounting firms. In order to receive money, these groups must agree that the Legislative Audit Division can perform an audit to see how these funds are expended. They would have to budget for an audit but not necessarily an audit by the Legislative Audit Division. They could, for example, be audited by the Bureau of Alcohol and

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Drug Abuse. The Audit Division would be asked to audit the Bureau of Alcohol and Drug Abuse about every 4 to 6 years. However, the Bureau may want to audit smaller groups associated with them more often and more currently. This bill would allow them to do this.

Discussion then turned to ACR 22 which:

Directs Legislative Commission to conduct study of feasibility of establishing dental schools with clinics in Washoe and Clark counties as part of University of Nevada System.

Assemblyman Benkovich spoke on behalf of this measure. He said there were three points in favor of establishing such a school at the University of Nevada - Reno. Those points are:

1. Facilities available at UNR
 - a. Anatomy Building
 - b. Medical School Annex
 - c. Mackay Science Hall
2. Clinic can be made self-sustaining.
3. Teacher salaries - provided by student tuition.

Mrs. Wagner said she could see no specific designation in this measure for this school to be located at UNR. Mr. Benkovich explained that this language would provide for branching out. He said a medical school and dental school go hand in hand because it would simply be a matter of one or two more courses. He suggested UNR because there are already facilities available. But he added that it should be done where it would result in the least amount of dollar impact on the State. He said it can be done now with a minimal amount from the State General Fund to set up and structure this dental school. He said it would really benefit the State with a negligible dollar impact. Although Mr. Benkovich stated a dental school can be made self-sustaining, Mr. Mello was skeptical of this point.

Discussion then turned to ACR 24 which:

Directs the Legislative Commission to study the state election laws and to make a report of the results of the study with recommendations for proposed legislation to the next regular session of the Legislature.

Mr. Jacobsen spoke on behalf of this bill stating that during the last election it was obvious to everyone that there were a number of irregularities. He said it seemed appropriate that there be a non-partisan study to determine how we can better meet the needs of our growing population with respect to our election process and for this study to come back to the next regular session with recommendations. Mrs. Wagner commented that the Assembly Elections Committee is presently reviewing proposed legislation regarding clarification of the recount process and

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of the electronic data processing with regard to the present election process. Mr. Jacobsen continued by saying this study could be an in-house type of thing that the Legislative Counsel Bureau could do relating to all our election laws and do a comparison with other states. Mr. Dreyer commented that a study of our election laws was done after the 1971 Session and he wondered if rather than a whole new study if this could be directed to specific sections of the law.

AJR 11, AJR 12, and AJR 13 were then discussed. These measures make up part of the Legislative Reform Package.

AJR 11: Proposes to amend Nevada Constitution to provide compensation for Members of Legislature on basis of legislative days instead of calendar days.

AJR 12: Proposes constitutional amendment requiring Governor to convene special session of Legislature upon petition of two-thirds of members of each house and permitting expansion of agenda by two-thirds of such members during any special session.

AJR 13: Proposes to amend Nevada Constitution to permit 2-day organizational session before each biennial session.

Mr. Dini spoke on behalf of these three resolutions. Of AJR 11 he commented on how the Legislature always seems to get in a bind on the 60th day of running out of time. He felt this was a good way to show the public just how many days we are working.

He went on to comment on AJR 12 stating this provides for separation of powers and he felt the legislative branch should be co-equal with the executive branch of government.

Of AJR 13, he said this organizational session could be right after elections or whenever it is felt best. It would clear up a lot of uncertainties particularly of freshman legislators. He felt it should be done on legislative time because it is part of your duties. He added that the most important thing you do is your committee assignments and certainly it should be done in an orderly fashion and he felt this measure would do this.

Mrs. Ford then spoke on these three measures. She submitted to the committee a chart of Legislative Pay and Per Diem 1953 to 1973. She commented that there is a legal opinion with regard to pay by legislative day or by calendar day. She said the constitution simply provides for "days". Up until 1915 the Nevada Legislature was paid for days actually worked. Since that time, this language has been interpreted as calendar days. She felt pay for legislative days presents a much more factual picture to the public. She said per diem would still be received by calendar day to cover living expenses but salary would be received only for days actually in session. She did suggest some amendments to this measure. First of all, the

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measure still provides for \$60 limitation on stationery. She did not feel this was realistic and suggested this part of the measure be cleaned up. She also felt consideration should be given to increasing the pay allowances for the leadership.

With regard to AJR 12, Mrs. Ford stated her concern was for the separation of powers. She felt this should be used rarely and only on special emergency matters or perhaps on a two-thirds vote. She suggested amending AJR 12 and leaving in at least the last part of the measure. She felt this would be a realistic compromise. The legislative branch should be able to add some kind of items to the agenda of a special session. If this was not the case, only one or two committees would be working to solve said problems while the rest of the Body just sits around. Other key issues should be able to be discussed.

She then commented on AJR 13 saying there are a number of advantages in establishing assignments early so everyone could be prepared when the session actually begins. She felt time would be saved. She added that there should be a fiscal note to this measure which she estimated should be about \$16,200 to call a two-day organizational session. She said it presently costs \$10,000 to \$12,000 per day to run the Legislature and if we could spend \$16,000 at the front end to gear up, she felt this would save some days toward the end of the session.

Mr. Jacobsen did not feel the general tax paying public should have to bear the cost of the legislators getting organized and electing officers. He felt this was one of the responsibilities of an elected official. He added that it is expensive for those who have to travel to Carson City to do this.

Mrs. Ford continued by saying what is done now during the first week of the session could be done in the first week of December. We would know committee structure ahead of time and it would enable committee chairman to start getting information and zero in on this area of expertise. She said she was not saying getting together as one big caucus.

Mr. Jacobsen said the time between election and the session is needed by most legislators to catch their breath after the campaign and to begin to prepare their livelihood for the three-month absence during the session.

Mrs. Ford said this measure could allow for a formal organizational meeting. Legislators could be sworn in at this time. The Speaker could be chosen and there could be an informal caucus and committees could be announced. All this would then not have to be done during first week of session.

Mr. Dreyer commented on this saying if the swearing in was done at this 2-day organizational session, families of legislators would want to attend and this would create much additional expense for the legislators. He did not see where anything would be gained.

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Mrs. Ford said the states that do this do it shortly after the election.

Mr. Getto then spoke on these three reform measures. He said a legislator becomes the representative of his district the day after the election and he could be sworn in at any time thereafter. He added that the minority party of the Assembly was in favor of all three of these measures. He said 17 states have organizational sessions. He felt it would be helpful to the process of legislation. He commented that it has been said that the large number of freshmen normally in the Assembly slows the process down. He felt this organizational session would give them some experience and answer many of their questions and give them some confidence. He felt this would speed up the legislative process.

Mr. Jacobsen said he saw nothing wrong with slowing things down at the beginning of the session. It gives everyone a chance to get their feet on the ground. He did not feel you could educate everyone on the first day or that you could cram it all in during a two-day organizational session.

Mr. Getto felt an organizational session would alleviate some of the piled-up legislation at the end of a session and that it would allow for getting the heavier work out of the way at the beginning. Mr. Dreyer felt that there is no session that does not get piled up at the end of the session and he did not feel an organizational session would help. He added that the media seems to be the only ones screaming about how long the session lasts. He thought the people would rather the session last longer if it would mean good legislation comes out of it.

Mrs. Wagner commented on the merits of the mock session. She felt it was very advantageous and a definite step in the right direction. Mr. Sena concurred.

Mr. Getto said this measure is an attempt to save time in the process of legislation. He felt legislators should be paid for this organizational session since the situation of "only those who can afford to run become legislators" is not the case anymore. Mrs. Wagner also felt legislators should be paid for this.

Mr. Getto then spoke about AJR 11. He said it was strange because there is nothing in the constitution that says legislators will be paid for calendar days. He thought this could be changed by statute rather than by constitutional amendment by just defining "day". He is in favor of this bill because he feels anything that will improve the public image is a step forward because public opinion is so low right now.

Mr. Jacobsen wondered about those who work on days when there is no session. He felt if any work was being done legislatively that this should be considered a legislative day.

Mr. Dreyer commented that this could create a bookkeeping problem in that some people would be working on days when others are not. There will be some who have put in more days of work than others. He continued by saying some legislators may go home for the weekend but that does not mean they are not working. They spend much time on the phone to constituents, etc. Mr. Jacobsen did not see how this measure would improve the legislative process. Mr. Getto said again that it would help the public image and if it did this, it would improve the process. Mr. Dreyer continued by saying the pay would not change at all, it would just be stretched out and he did not think the public cared one way or the other. Mr. Getto said the philosophy behind this was that in most things you get paid for the days worked. Here, this is not the case. You are getting paid for days you do not work. When it is said a session lasts 120 days, this is not true because we weren't working all of those days.

Assemblyman Murphy then spoke saying he was also in favor of these three measures. He said the most important one to him was the bill providing for the two-day organizational session. He said the mock session was very beneficial to him. He felt legislators should receive at least their per diem while attending this pre-session but not necessarily a salary. He felt this measure would result in a better trained legislature.

Assemblyman Heaney stated that he was in favor of AJR 11, AJR 12 and AJR 13.

Discussion then turned to ACR 8 which:

Directs Legislative Commission to study sexual discrimination in Nevada law.

Mr. Getto spoke on behalf of this bill saying the Senate is doing quite a bit in this area but he still feels this is a needed resolution because regardless of what they do, there are still going to be areas not covered. He added if the ERA is passed federally, this will have to be done either by the State or by the courts. Mr. Jacobsen commented that he thought this information had already been obtained. Mr. Getto said if this is so, that is fine, but if not, he would like to see this resolution passed. Mr. Jacobsen commented that he felt Nevada should take care of its own problems if it is within our ability to do so. If this study will do this, he said he was all for it.

Kate Butler then spoke saying she was strongly in support of ACR 8. She said even in process of passing out new laws, there is a potential of actually passing out further discriminatory law. She added that doing this now would certainly help Nevada in anticipation of the passage of the ERA. She said she would like to amend ACR 8 as follows:

1. That it provide for a citizens advisory committee
2. That the words "if any" be amended out of the bill. This language occurs on lines 10 and 16.

Barbara Silberling then spoke saying she was in support of Kate Butler's testimony.

Robin Morgan then spoke saying she would like to see more input from women on this advisory committee.

Barbara Weinberg then spoke saying she, too, strongly supported the citizens advisory committee.

This concluded testimony on ACR 8.

Mr. Jacobsen brought up the fact that perhaps there should be legislation that would standardize the form for all the State Quarterly Reports. It was determined that Mrs. Ford has such a measure proposed.

Mr. Jacobsen then commented on the fact that there was not medical services available here in the Legislature Building and also the fact that legislators usually receive medical care while here at no cost but that several of the legislators had received medical care and have been charged for it. He commented that this particular matter was usually handled by the Chairman of the Health and Welfare Committee. Mr. Jacobsen said he would look into the matter and report back at the next meeting.

Mr. Mello moved for the adoption of the proposed amendments by Kate Butler to ACR 8. This was seconded by Mr. Sena and carried the committee unanimously with the exception of Mr. Jacobsen who said he was in favor of the citizens advisory committee, but if this is to be delegated to the Commission, then this decision should be left up to them.

Mr. Mello then moved a "do pass" on ACR 8 which was seconded by Mr. Jacobsen and carried the committee unanimously.

The meeting was adjourned at 5:00 P.M.

Respectfully submitted,

Joan Anderson, Secretary

ASSEMBLY
SUPERSEDED PREVIOUS AGENDA POSTED 3/25/75
AGENDA FOR COMMITTEE ON LEGISLATIVE FUNCTIONS
UPON P.M.

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Date MARCH 25, 1975 Time ADJOURNMENT Room 222

Bills or Resolutions
to be considered

Subject

Counsel
requested*

- | Bills or Resolutions
to be considered | Subject | Counsel
requested* |
|--|--|-----------------------|
| ACR 8 | Directs Legislative Commission to study sexual discrimination in Nevada law. | |
| ACR 22 ✓ | Directs Legislative Commission to conduct study of feasibility of establishing dental schools with clinics in Washoe and Clark counties as part of the University of Nevada System. | |
| ACR 24 ✓ | Directs the Legislative Commission to study the state election laws and to make a report of the results of the study with recommendations for proposed legislation to the next regular session of the legislature. | |
| * AJR 11 ✓ | Proposes to amend Nevada Constitution to provide compensation for Members of Legislature on basis of legislative days instead of calendar days. | |
| * AJR 12 ✓ | Proposes constitutional amendment requiring Governor to convene special session of Legislature upon petition of two-thirds of members of each house and permitting expansion of agenda by two-thirds of such members during any special session. | |
| * AJR 13 ✓ | Proposes to amend Nevada Constitution to permit 2-day organizational session before each biennial session. | |
| AB 281 ✓ | Relieves Legislative Auditor of function of auditing certain groups which contract with Bureau of Alcohol and Drug Abuse. | |

* LEGISLATIVE REFORM PROPOSALS.

LEGISLATIVE FUNCTIONS COMMITTEE
LEGISLATION ACTION

DATE March 25, 1975

SUBJECT ACR 8 - Directs Legislative Commission to study sexual
discrimination in Nevada law.

MOTION 1. Adopt Amendments X 2. Do Pass as Amended X

Do Pass. Amend Indefinitely Postpone Reconsider

Moved By 1. Mello 2. Mello Seconded By 1. Sena 2. Jacobsen

AMENDMENT: 1. That it provide for a citizens advisory committee
2. That the words "if any" be deleted in lines 10 and 16.

Moved By _____ Seconded By _____

AMENDMENT: _____

Moved BY _____ Seconded By _____

VOTE:	<u>MOTION</u>		<u>AMEND</u>		<u>AMEND</u>	
	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Mr. Bennett	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Mrs. Brookman	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Mr. Jacobsen	<u>X</u>	<u> </u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>
Mr. Mello	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Mr. Sena	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Mrs. Wagner	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Mr. Chairman	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

ORIGINAL MOTION: Passed X Defeated Withdrawn

AMENDED & PASSED AMENDED & DEFEATED

AMENDED & PASSED AMENDED & DEFEATED

Attached to Minutes March 25, 1975

LEGISLATIVE PAY & PER DIEM, 1953 - 1973

Leg. Session	# of days salary paid ¹	Auth salary per day	Number of legislators ²	Total Salary for session	Auth Per Diem ³	Total Per Diem Paid	Total Compensation
1953	60	\$ 15	65	\$ 58,740	\$ 10	\$ 31,000	\$ 97,740
1954 (spec)	5	\$ 15	65	\$ 4,875	\$ 10	\$ 3,250	\$ 8,145
1955	60	\$ 15	65	\$ 58,740	\$ 10	\$ 31,000	\$ 97,740
1956 (spec)	20	\$ 15	65	\$ 19,580	\$ 10	\$ 13,000	\$ 32,580
1957	60	\$ 15	65	\$ 58,740	30 days @ \$10 30 days @ \$15	\$ 48,750	\$ 107,490
1958 (spec)	2	\$ 15	65	\$ 1,950	\$ 15	\$ 1,950	\$ 3,900
1959	60 (67)	\$ 25 (1959 for 8 sen)	65	\$ 92,940	\$ 15	\$ 65,325	\$ 158,265
1960	54	\$ 25	65	\$ 87,466	\$ 15	\$ 52,650	\$ 140,616
1961	60 (76)	\$ 25	65	\$ 97,740	\$ 15	\$ 74,100	\$ 171,840
1963	60 (94)	\$ 25	55	\$ 82,740	\$ 15 for 30 days \$ 25 for 30 days \$ 15 for 34 days	\$ 94,050	\$ 176,790
1964 (spec)	17	\$ 25	55	\$ 23,443	\$ 25	\$ 23,375	\$ 46,818
1965	60 (77)	\$ 40 (\$25 for 8 sen)	55	\$ 125,040	\$ 25 for 60 days \$ 15 for 17 days	\$ 96,525	\$ 221,565
1965 (spec)	20	\$ 40 (\$25 for 8 sen)	55	\$ 41,680	\$ 25	\$ 27,500	\$ 69,180
1966 (spec)	18	\$ 40 (\$25 for 8 sen)	55	\$ 37,512	\$ 25	\$ 24,750	\$ 64,422
1967	60 (90)	\$ 40	61	\$ 146,640	\$ 25	\$ 137,250	\$ 283,890
1968 (spec)	20	\$ 40	61	\$ 48,880	\$ 25	\$ 30,500	\$ 79,380
1969	60 (95)	\$ 40	61	\$ 146,610	\$ 25	\$ 144,875	\$ 291,515
1971	60 (99)	\$ 40	61	\$ 146,640	\$ 30	\$ 181,170	\$ 327,810
1973	60 (102)	\$ 60 (\$40 for 9 sen)	61	\$ 211,320 ⁴	\$ 30	\$ 186,660 ⁵	\$ 397,980

1-The figures in parentheses are actual session lengths. 2-All figures include the Lt Gov. 3-From 1953 until midway in the 1957 session, the per diem was that set for public officers & employees generally which was \$10. 4-The Lt Gov is paid salary for entire session. 5-In 1971, the extra \$2/day for the Lt Gov & the Speaker was put into per diem instead of salary.

NOTE: The Accounting Office does not have summary financial reports for the sessions 55-67. The figures for those years are reconstructed from the statutes. They are not perfectly accurate so should be used carefully. Legislative salary changes are enacted two years before they go into effect and for half the senate, the raise is delayed four years. Per diem changes go into effect as specified in the act.

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CARSON CITY, NEVADA 89701



LEGISLATIVE COMMISSION
DONALD R. MELLO, Assemblyman, Chairman
INTERIM FINANCE COMMITTEE
FLOYD R. LAMM, Senator, Chairman

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ARTHUR J. PALMER, Director

CLINTON E. WOOSTER, Legislative Counsel
EARL T. OLIVER, Legislative Auditor
ARTHUR J. PALMER, Research Director

October 1, 1973

M E M O R A N D U M

To: Legislative Counsel
From: Edward G. Stevenson
Subject: Opinion regarding Article 4, §33, Nevada State Constitution

Question

Would an adjournment for a recess during a regular legislative session require payment for the recessed days as part of the 60 days of compensation provided in Article 4, §33 of the Nevada State Constitution?

Answer

A judicial interpretation of Article 4, §33 would probably require such payment.

Analysis

Article 4, §33 of the Nevada State Constitution reads in pertinent part:

The members of the Legislature shall receive for their services, a compensation to be fixed by law and paid out of the public treasury, for not to exceed 60 days during any regular session of the legislature*** (underscoring added).

The Nevada State Constitution as promulgated in 1864 did not contain the underscored language. That language was proposed and passed as an amendment by the 1955 legislature; agreed to and passed by the 1957 legislature; and approved and ratified by the people at the 1958 general election.

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Research into the amendment, including review of the BDR file and Journal of the Assembly for 1955 and 1957, failed to reveal the legislative intent behind such a change. A review of Nevada Attorney General Opinions through September 6, 1973; Legislative Counsel Opinions from October 7, 1963 through August 30, 1973; Annotations to Nevada Revised Statutes; and California Attorney General Opinions disclosed nothing relevant to either the amendment or §33 in general.

Any inquiry into Article 4, §33 necessarily includes research into legislation enacted to implement the general authorization for compensation. Any interpretation of the underscored language would probably be made in conjunction with an interpretation of the preceding broad language as evidenced by legislative enactments. This in turn would require interpretation of those enactments, either in the form of formal opinion or actual practice, to determine the legislatures understanding, construction, or interpretation of Article 4, §33.

Absent any formal interpretation of §33, it first becomes necessary to resort to general rules of constitutional construction.

The rule is well established that in the construction of a constitution recourse may be had to proceedings in the convention which drafted the instrument. However, debates of a convention are not considered of controlling weight upon the construction of constitutional provisions. 16 Am.Jur.2d §83

A review of the Nevada Constitutional Debates and Proceedings disclosed a concern on the part of the convention that the actual setting of pay be accomplished by the legislature rather than be fixed by the constitution, hence the language, "***a compensation to be fixed by law and paid out of the public treasury,***" found in §33.

It is also worthy of note that the framers of the constitution attempted initially to set the terms of pay for the legislature but finally settled on the above language and a section in Article 17 setting out the terms of pay for the first session of the legislature. That section provided:

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For the first term of office succeeding the formation of a state government, * The pay of State Senators and Members of Assembly shall be eight dollars per day for each day of actual service,***.**

This would appear to indicate the intent of the framers of the constitution to compensate the legislators for "***each day of actual service,***." The difficulty of course, rests in the interpretation to be given the term service. Does it refer to the entire session or only to legislative days?

It would appear that the amendment to §33 in 1958, while adding a 60-day restriction on the length of compensation, did not apply to or alter the power of the legislature to set the basic terms of payment. In such a case it becomes necessary to look to the legislative implementation of §33 both prior to and after the 1958 amendment.

In questions of constitutional construction, great weight has always been attached to the contemporaneous interpretation by the courts or other departments of government. The presumption is that those who were the contemporaries of the makers of the constitution had the best opportunities of informing themselves of the understanding of the framers and of the sense put upon the constitution by the people when it was adopted. 16 Am.Jur.2d §83

The principle of contemporaneous construction may be applied to the construction given by the legislature to the constitutional provisions dealing with legislative powers and procedures. Though not conclusive, such interpretation is generally conceded as being entitled to great weight. It has been generally stated that contemporaneous construction of a constitutional provision by the legislature, continued and followed, is a safe guide as to its proper interpretation and should not be departed from unless manifestly erroneous. 16 Am.Jur.2d §85

The Statutes of Nevada for 1864-65 contain the legislative enactment setting forth the terms of payment as follows:

Chapter 11, §1, The Members of the Legislature shall receive a compensation of eight dollars for each and every day of actual attendance during the session,*** (underscoring added).

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The General Statutes of Nevada for 1885 contain the following language in section 2300:

To State Senators and Members of the Assembly, eight dollars per day for each day of service,*** (underscoring added).

Of particular note is the pay provision contained in the Compiled Laws of Nevada (Cutting) for 1893:

To State Senators and Members of the Assembly, eight dollars per day for each day of service, provided the total amount so paid shall not exceed the sum of four hundred dollars at any regular session,*** (underscoring added).

This was in effect from 1893 through 1915 and as noted limits pay to four hundred dollars or 50 days. Since the regular session was restricted to 60 days per Article 4, §29, it would appear that the legislature contemplated payment for other than calendar days. It would have been impossible to compensate the members for a full 60 day session if calendar days was the interpretation contemplated. This interpretation receives even more credence when considered in light of prior language in the Statutes, "***[pay] for each and every day of actual attendance***." From the above it would appear that the initial interpretation of §33 was to provide for compensation for legislative days.

In 1915 the statutes were amended to provide:

To State Senators and Members of the Assembly, ten dollars per day for each day of service; provided the total amount so paid shall not exceed the sum of six hundred dollars at any regular session,***." (Revised Laws of Nevada, 1919, Vol. 3, §4393.)

This language has continued to the present time though amended several times to increase the dollar amount.

The difficulty arises when recognition is given the fact that from 1953 to 1973 the actual practice has been to compensate legislators on the basis of calendar days. (Pay practice was researched only to 1915, it is possible the practice predates 1915.)

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Long-continued contemporaneous and practical interpretation of a statute by the executive officers charged with its administration and enforcement, constitutes an invaluable aid in determining the meaning of a doubtful statute. This rule of construction is closely related to the doctrine that statutes will be given their common and ordinary meaning, since resort to extrinsic sources is one method of determining the meaning given the language of a statute in actual practice. (§49.03 Sutherland Statutory Construction, 4th Edition.)

A contemporaneous interpretation is one made at or soon after the time of enactment, and given special consideration since it was made at a time when the circumstances leading up to the enactment of the statute are well known (§49.08 Sutherland).

Although contemporaneous and practical construction is not followed where it is unreasonable and clearly erroneous, there is support for a presumption in its favor. Where there has been a long continued administrative interpretation of a statute which has two or more possible reasonable interpretations, the rulings of the administrative body should be controlling. (§49.04 Sutherland)

The conclusiveness of a contemporaneous and practical interpretation will depend upon a number of additional elements that give efficacy to the rule. In general, these elements are: (1) that the interpretation originated from a reliable source; (2) that the interpretation was made at or near the time of the enactment of the statute; and (3) that the interpretation has continued for a long period of time and received wide acceptance and following (§49.04 Sutherland).

If the meaning of a statute is not doubtful, or if the administrative construction has not been uniform, "the rule which attaches great weight to administrative interpretation is inapplicable." An administrative construction which was arrived at in "an uncontested nonadversary proceeding," has been said not to be entitled to great weight (§49.05 Sutherland).

Where contemporaneous and practical interpretation has stood unchallenged for a considerable length of time, it will be regarded as of great importance in arriving at the proper construction of a statute. Contemporaneous interpretations ranging in duration from as long as seventy to as short as five years have been found to have established the legislative meaning (§49.07 Sutherland).

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A practical construction acquiesced in for many years, although not truly contemporaneous with the adoption of the constitution is frequently resorted to in interpreting its provisions.
16 Am.Jur.2d §84

A constitutional construction which has been long accepted by the various agencies of government, and by the people, will usually be accepted as correct by the judiciary. 16 Am.Jur.2d §83

It has been held that an administrative construction of a constitution, generally accepted and acted upon over a long period of years, is entitled to great weight in a judicial interpretation of the constitution. 16 Am.Jur.2d §86

In summary, it would appear that the interpretation of Article 4, §33 would depend not only upon the legislative interpretation as evidenced by implementing enactments, but also upon practical administrative interpretation of those implementing enactments evidenced by at least twenty years of practice.

While there is room to speculate that the contemporaneous legislative construction was one requiring payment for legislative days only, there is an even stronger presumption that the proper interpretation is calendar days. Not only is there lengthy practice pointing to such a conclusion, there is legislative acquiescence of such practice.

With respect to judicial interpretation of constitutions we note the following cases:

Words used in the constitution must be given their ordinary and usual meaning, unless so qualified by accompanying language as to alter such meaning. State ex rel. Clarke v. Irwin 5 Nev. 111 (1869).

The constitution is to be construed in an ordinary sense and usage of language, literally, unless some apparent absurdity, or obvious and manifest violation of the sense of the instrument, or unmistakable intent of its framers, forbids. It is not allowable to interpret what has no need of interpretation. State ex rel. Lewis v. Doran, 5 Nev. 399 (1870)

In addition the U.S. Supreme Court has said:

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The words used in the Constitution are to be taken in their natural and obvious sense, and are to be given the meaning they have in common use unless there are very strong reasons to the contrary. The word "days" when not qualified means in ordinary and common usage: calendar days *** There is nothing whatever to justify changing this meaning by inserting the words "legislative" as a qualifying adjective.

The views which we have expressed as to the construction and effect of the constitutional provision here in question are confirmed by the practical construction that has been given it by the Presidents through a long course of years, in which Congress has acquiesced. Long settled practice is a consideration of great weight in a proper interpretation of constitutional provisions of this character. (pocket veto time limitation) Okanagan Indians v. U.S. 279 U.S. 655

Finally, in Smiley v. Holm, as Secretary of State of Minnesota, 285 U.S. 355, the U.S. Supreme Court said:

General acquiescence cannot justify departure from the law, but long and continuous interpretation in the course of official action under the law may aid in removing doubts as to its meaning.

In conclusion it would appear that Article 4, §33 would not necessarily require payment for the recessed days, although there is the strong possibility that the final judicial interpretation of that section as well as the implementing legislation would result in such a finding.

Edward Stevenson
Legislative Intern

ES:mjf

TABLE 11
LEGISLATIVE SESSIONS—LEGAL PROVISIONS

State or other jurisdiction	Year	Regular sessions		Limitation on length of session	Special sessions		
		Legislature convenes*			Legislature may call	Legislature may determine subject	Limitation on length of session
		Month	Day				
Alabama.....	Odd	May	1st Tues.(a)	36 L	No	3/4 vote those present	36 L
Alaska.....	Annual(b)	Jan.	3rd Mon.	None	3/4 of membership	Yes(c)	30 C
Arizona.....	Annual	Jan.	2nd Mon.	None	Petition 3/4 members	Yes(c)	None
Arkansas.....	Odd(d)	Jan.	2nd Mon.	60 C(d)	No	(e)	None(e)
California.....	Even(f)	Dec.	1st Mon.	None	No	No	None
Colorado.....	Annual(g)	Jan.	Wed. after 1st Tues.	None	No	No	None
Connecticut.....	Annual(g)	Odd—Jan.	Wed. after 1st Mon.	(h)	Yes	Yes	None(l)
Delaware.....	Annual(b)	Jan.	2nd Tues.	June 30	Jt. call, presiding officers, both houses	Yes	None
Florida.....	Annual	Apr.	Tues. after 1st Mon.	60 C(d)	Jt. call, presiding officers, both houses	Yes	20 C(d)
Georgia.....	Annual(b)	Jan.	2nd Mon.	(j)	Petition 3/4 members, each house	Yes(c)	(k)
Hawaii.....	Annual(b)	Jan.	3rd Wed.	60 L(d)	Petition 3/4 members, each house(l)	Yes(l)	30 L(d)
Idaho.....	Annual	Jan.	2nd Mon.	60 C(m)	No	No	20 C(m)
Illinois.....	Annual(b)	Jan.	2nd Wed.	None	Jt. call, presiding officers, both houses	Yes	None
Indiana.....	Annual	Nov.	3rd Tues. after 1st Mon.(n)	(o)	No	Yes	(p)
Iowa.....	Annual(b)	Jan.	2nd Mon.	None	No	Yes	None
Kansas.....	Annual(b)	Jan.	2nd Tues.	90 C(m)	Petition 3/4 members	Yes	30 C(m)
Kentucky.....	Even	Jan.	Tues. after 1st Mon.	60 L	No	No	None
Louisiana.....	Annual(g)	May	2nd Mon.	Even 60 C	Petition 3/4 members, each house(q)	Yes(c)	30 C
Maine.....	Odd	Jan.	1st Wed.	Odd 30 C	Majority of each party	Yes	None
Maryland.....	Annual	Jan.	2nd Wed.	90 C(d)	Petition of majority of members	Yes	30 C
Massachusetts.....	Annual	Jan.	1st Wed.	None	Yes	Yes	None
Michigan.....	Annual(b)	Jan.	2nd Wed.	None	No	No	None
Minnesota.....	Odd(r)	Jan.	Tues. after 1st Mon.	120 L	No	Yes	None
Mississippi.....	Annual	Jan.	Tues. after 1st Mon.	(s)	No	No	None
Missouri.....	Annual	Jan.	Wed. after 1st Mon.	Odd June 30	No	No	60 C
Montana.....	Annual(b)	Jan.	1st Mon.	60 L	Petition of majority of members	Yes	None
Nebraska.....	Annual(b)	Jan.	1st Tues.	Odd 90 L(d)	Petition 3/4 members	Yes	None
Nevada.....	Odd	Jan.	3rd Mon.	Even 60 L(d)	No	No	20 C(m)
New Hampshire.....	Odd	Jan.	1st Wed.	60 C(m)	Yes	Yes	None(m)
New Jersey.....	Annual(b)	Jan.	2nd Tues.	None	Petition of majority of members	Yes	None
New Mexico.....	Annual(g)	Jan.	3rd Tues.	Odd 60 C	Petition 3/4 members, each house	Yes(c)	30 C
New York.....	Annual(b)	Jan.	Wed. after 1st Mon.	Even 30 C	No	No	None
North Carolina.....	Odd(r)	Jan.	Wed. after 2nd Mon.	None	Petition 3/4 members, each house	Yes	None
North Dakota.....	Odd	Jan.	Tues. after 1st Mon.(u)	60 L	No	Yes	None
Ohio.....	Annual	Jan.	1st Mon.(aa)	None	Jt. call, presiding officers, both houses	Yes	None

Oklahoma.....	Annual(b)	Jan.	Tues. after 1st Mon.	90 L	No	No	None
Oregon.....	Odd	Jan.	2nd Mon.	None	No	Yes	None
Pennsylvania.....	Annual(b)	Jan.	1st Tues.	None	Petition of majority of members	No	None
Rhode Island.....	Annual(b)	Jan.	1st Tues.	60 L(m)	No	No	None
South Carolina.....	Annual(b)	Jan.	2nd Tues.	None	No	Yes	None
South Dakota.....	Annual	Jan.	Odd—Tues. after 3rd Mon.	45 L	No	No	None
Tennessee.....	Odd(r)	Jan.	Even—Tues. after 1st Mon.	30 L	Petition 3/4 members	Yes	30(m)
Texas.....	Odd	Jan.	1st Tues.(v)	90 L(m)	No	No	30 C
Utah.....	Annual(g)	Jan.	2nd Tues.	140 C	No	No	30 C
Vermont.....	Odd(r)	Jan.	2nd Mon.	Odd 60 C	No	No	30 C
Vermont.....	Odd(r)	Jan.	Wed. after 1st Mon.	Even 20 C	No	Yes	None
Virginia.....	Annual(b)	Jan.	2nd Wed.	None(m)	No	Yes	None
Washington.....	Odd	Jan.	2nd Mon.	Odd 30 C	Petition 3/4 members	Yes	30 C(d)
West Virginia.....	Annual	Jan.	2nd Wed.(w)	Even 60 C	No	Yes	None
Wisconsin.....	Annual(b)	Jan.	2nd Mon.	60 C	Petition 3/4 members	No(y)	None
Wyoming.....	Annual	Jan.	1st Tues. after Jan. 15(z)	60 C(d,x)	Petition of majority of members	No(y)	None
Wyoming.....	Annual	Jan.	Odd—2nd Tues.	None	No	Yes	None
American Samoa.....	Annual	Jan.	Even—4th Tues.	40 L	No	No	None
Guam.....	Annual	July	2nd Mon.	20 L	No	No	None
Guam.....	Annual(b)	Jan.	2nd Mon.	30 L	No	No	None
Puerto Rico.....	Annual(b)	Jan.	2nd Mon.	None	No	No	20
TTPI.....	Annual(b)	Jan.	2nd Mon.	Apr. 30(d)	No	No	None
Virgin Islands.....	Annual(b)	Jan.	2nd Mon.	50 C	No	No	None
Virgin Islands.....	Annual(b)	Jan.	2nd Mon.	75 L	No	No	None

Abbreviations: L—Legislative days; C—Calendar days.
 *All States elect new Legislatures in November of even-numbered years except Kentucky, Louisiana, Mississippi, New Jersey and Virginia (see "General Elections in 1974 and 1975").
 (a) Legislature convenes quadrennially on second Tuesday in January after election to organize.
 (b) The Legislature meets in two annual sessions but the sessions are considered to be continuous since bills carry over from the first session to the second session and the Legislature does not adjourn sine die until the end of the second session.
 (c) If Legislature convenes itself.
 (d) Session may be extended for an indefinite period of time by vote of members in both houses. Arkansas: 3/4 vote (This extension can permit the Legislature to meet in even years); Florida: 3/4 vote; Hawaii: petition of 3/4 membership; Kansas: 3/4 vote for 15 L days; Maryland: 3/4 vote for 30 additional days; Nebraska: 3/4 vote; Virginia: 3/4 vote for 30 days; West Virginia: 3/4 vote; Puerto Rico: joint resolution.
 (e) After the Legislature has disposed of the subject(s) in the Governor's call, it may by a 3/4 vote of members in both houses take up subject(s) of its own choosing in a session of up to 15 days.
 (f) Regular sessions commence on the first Monday in December of each even-numbered year (following the general election) and continue until November 30 of the next even-numbered year. It may recess from time to time, and may be recalled into regular session.
 (g) Second session of Legislature is basically limited to budget and fiscal matters. Even year in all States but Louisiana.
 (h) Odd years: not later than first Wednesday after first Monday in June; even years: not later than first Wednesday after first Monday in May.
 (i) Special sessions for reconsideration of bills vetoed by the Governor after the close of regular sessions are limited to three days.
 (j) Odd years: Legislature convenes for 12 days to organize. It reconvenes on second Monday in February for limit of 33 days or an aggregate of 45 L days; even years: 40 L days.
 (k) Limited to 70 days if called by Governor and 30 days if called at petition of Legislature, except for impeachment proceedings.
 (l) If Governor notifies Legislature he plans to return bills with objections which were submitted to him less than 10 days before adjournment, a special session to reconsider such bills may be convened without call on 45th day after adjournment.
 (m) Indirect restriction only since legislators pay, per diem, or daily allowance stops but session may continue. Nevada: no limit on allowances; New Hampshire: constitutional limit on expenses of 90 days or July 1, whichever occurs first, 15 days salary and expenses for special sessions; Tennessee: constitutional limit per diem and travel allowance only; Vermont: statutory limit.
 (n) Organizational session of one day. Legislature then recesses to reconvene no later than the second Monday in January of the following year.
 (o) Odd years: 61 L days or April 30; even years: 30 L days or March 15.
 (p) 30 L days in a 40 C day period.
 (q) 3/4 elected members must petition for special session during the 30 days before or 30 days after the regular fiscal sessions in odd years. A simple majority of each house may convene a special session on 31st day after sine die adjournment to act on one or more vetoed measures.
 (r) The Legislature may and in practice has divided the session to meet in even years also.
 (s) Regular sessions in 1972 and every fourth year thereafter are limited to 125 C days; other years 90 C days. By concurrent resolution of 3/4 of those present and voting in each house, session may be extended for 30 C days with no limit on number of extensions.
 (t) If the Governor returns any bill with his objections after adjournment of the Legislature in even-numbered years, the Legislature shall automatically reconvene on the first Wednesday following the first Monday in September for a period not to exceed 10 days for the sole purpose of considering the bills vetoed by the Governor.
 (u) The Legislature meets for an organization and orientation meeting in December following the general election. The Legislature then recesses the first Tuesday after the first Monday in January or any other time prescribed by law, but no later than January 8.
 (v) Legislature convenes for 15 days in January to organize and introduce bills. It reconvenes the fourth Tuesday in February.
 (w) Following each gubernatorial election, the Legislature convenes on the second Wednesday of January to organize but recesses until the second Wednesday in February for the start of the 60-day session.
 (x) Governor must extend until the general appropriation is passed.
 (y) No, if called by Governor alone; questionable if called as a result of petition of members.
 (z) The Legislature by joint resolution establishes the calendar dates of session activity for the remainder of the biennium at the beginning of the odd-numbered year.
 (aa) 1st Monday in January or the day after if the 1st Monday falls on a legal holiday.

Assemblyman Darrell Dryer
Chairman of the Assembly Standing Committee on Legislative Affairs
Legislative Building
Carson City, Nv.

Dear Assemblyman Dryer and Members of the Committee:

Due to a long standing prior committment, I am obliged to be out of town today and therefore request that, in my absence, this be read at the hearing and read into the record. Thank you.

I am speaking for Common Cause of Nevada.

We wish to give our positive support to AJR 12, 13, & 11.

AJR 11: It should be obvious that the work of the Nevada Legislature cannot be accomplished in 60 Calendar Days which is actually only 42 Legislative Days. While some Legislators may have sufficient earnings from investments or from annual salaries, it seems that the vast majority of the Legislators do not. You who are common citizens cannot ignore the true needs of yourselves and your families. The idea of working as a Legislator without pay might discourage some common citizens from seeking the office of Senator or Assemblyman which are so important and fundamental to our democracy.

Also, the lack of salary might motivate the members of the Legislature to quit and go home before the important business is over and completed. Although the 60th calendar day of this 58th Session is now passed; nevertheless, it seems that the most important and most difficult legislative matters are still unfinished and still require much study and discussion. Additionally, there are many important matters which have not as yet come out of the bill drafter's office. Certainly, 60 Calendar Days are not enough.

I presume that the switch from Calendar Days to Legislative Days would leave the same total amount to be paid out in salaries. Even, if it would increase that amount, it should still be done. However, if it does not increase the total amount received, I think that psychologically you would feel less pressure to wrap it up in a hurry and leave matters unfinished. I think you would probably do a better job under the legal and constitutional authorization of 60 Legislative Days than you would under 60 Calendar Days.

The founders of our State Constitution over a century ago would have in no way anticipated the complications and demands of modern society and a modern state. The weight and complication of matters before you increases with the growth of population in the state, with the multiplicity of modern institutions, and with the increasing duties imposed by the Federal Government and needed interstate planning. Such constitutional limitations simply must be removed for the sake of the people in our contemporary state.

Whether 60 Legislative Days is adequate or not for a modern state, I am not sure. Perhaps, 90 Legislative Days might be more realistic; perhaps you could allow yourselves some options or provision for increasing demands in the future. However, you at least need to take the step of providing for the 60 Legislative Days by passing AJR 11.

AJR 12= This also deserves passage. The Legislature is the Branch of Government most directly responsible to the people. You also should be able to have a

Constitutional mechanism for calling yourselves into Special Session when it seems that the good of the State of Nevada demands this. It is conceivable that at some time for political motivation, the Executive Branch might be occupied by someone who would refuse to call a special session or attempt to operate simply by Executive Authority when there was need for the Legislature to take action on matters of urgency. Also, at times such as the present, when you feel that you cannot responsibly plan and budget for the entire biennium, you need the legal mechanism to lcall yourselves back together if you should/you decide this to be necessary. As it is written, and with the 2/3 vote required, there are sufficient safeguards to prevent this from being abused or exploited by the Legislature.

AJR13-- We believe that AJR 13, would also provide you with an option which could enable you to use more efficiently and effectively the time of the session. It would seem that time judiciously used and scheduled in sufficient advance of the actual coming together of the Legislature could speed up your initial days here. The present set up seems to create some inefficiency and waste of time.

Thank you. We appreciate your considering these important reform matters and urge you to give them your full and honest attention.

Gratefully and respectfully,
Fr. Larry Dunphy
Fr. Larry Dunphy, for Common Cause of Nevada.