

MINUTES

WAYS AND MEANS COMMITTEE

NEVADA STATE LEGISLATURE - 59TH SESSION

February 28, 1977

The meeting was called to order by Chairman Mello at 8:00 a.m.

PRESENT: Chairman Mello, Mr. Bremner, Mrs. Brookman, Mr. Glover, Mr. Hickey, Mr. Kosinski, Mr. Serpa, and Mr. Vergiels. Mr. Bode Howard and Mr. Dean Rhoads did not attend the meeting, but their absences were excused.

ALSO PRESENT: Dr. Lloyd Smith, President, Desert Research Institute; Dr. Warren Kocmond, Dr. George Linkletter, Dr. John Hallett, and Dr. Jim Telford of the Desert Research Institute; Dr. John James, President, Mountain West Weather Service; Mr. James Conkey, Conkey & Associates; Mr. Robert Elliott, President, North American Weather Consultants; Dr. Carl Larson of the California Institute of Earth, Planetary and Life Sciences; Mr. Tom Henderson of Atmosphericics Incorporated; Mr. Mike Brown of the Nevada Supreme Court System; Speaker Joe Dini; Assemblymen Danny Demers, Don Moody, and Bob Weise; Mr. John Dolan, Assembly Fiscal Analyst; and Mr. Bill Bible of the Budget Division.

Chairman Mello began by asked for discussion regarding A.B. 305. Mr. Kosinski said he had approached the Committee through A.B. 305 to obtain an appropriation to fund the Judicial Selection and the Judicial Discipline Commissions through June 30, 1977. The sum of \$23,700 had been requested for the operation of the Judicial Selection Commission, and \$21,800 for the operation of the Judicial Discipline Commission.

Mr. Kosinski said he met with John Dolan, Bill Bible, and Mike Brown on Friday, February 25th, and had worked out some amended figures which are contained in the proposed amendment. They agreed to a total sum of \$19,756 for the period through June 30, 1977, and also recommended that the budget for the next biennium be reduced slightly to provide for reduced clerical staff. The \$19,756 is contrasted to the total requested appropriation of \$45,500 contained in the appropriation request.

A motion was made by Mr. Hickey to adopt the amendments to A.B. 305 and was seconded by Mrs. Brookman. Motion approved. A motion was made by Mrs. Brookman and seconded by Mr. Hickey to pass A.B. 305 as amended. Motion approved.

WEATHER MODIFICATION A.B. 279

Dr. Lloyd Smith began by saying there have been questions raised about the environmental impact and cost of cloud-seeding, and he believes that the Desert Research Institute is in the best possible position to cloud-seed and bring moisture to Nevada.

Dr. Warren Kocmond said that when the Nevada State Legislature asked DRI to look into the feasibility of conducting a cloud-seeding program, DRI assembled their professional staff to determine basic objectives for the program. Was it to be a short-term program of drought relief, or were they looking toward a longer-term water resources program? They determined that the best approach would be a responsible long-term water resources cloud-seeding program which would also address the immediate needs of emergency drought relief. He said emergency cloud-seeding is not a panacea to any kind of drought condition, and the best they could hope for was to enhance the snowfall by some percentage, as he had explained in last Wednesday's testimony.

Dr. Kocmond said the technical design of the overall program has to do with what they know now and what they still need to know in order to conduct useful cloud-seeding. Studies documented by the National Academy of Sciences indicated that seeding certain kinds of clouds can result in increases of between 10% and 30% in precipitation. Studies conducted by DRI related to the Pyramid Pilot Cloud Seeding Project also show apparent increases in precipitation when storms are seeded. An important point here is that precipitation increases are found to be substantially greater when moderate or severe storms are seeded, and there is increasing evidence that seeding a marginal or weak storm may actually cause a reduction in precipitation. This is a legitimate concern and points out the need to gather as much information as possible about what's really going on inside clouds before seeding them.

For this reason, DRI has proposed a comprehensive program, basically centered around three major points. First, DRI would do the cloud-seeding by using the services of a reliable commercial firm, using aircraft procedures and dropping flares into the cloud. This would provide response to the immediate need of emergency drought relief.

But DRI also wants two other important parts of the program included. Data should be gathered at the ground level to help document the results of seeding and to tell how accurate their overall targeting is. But, according to Dr. Kocmond, perhaps the most essential feature of the program is the in-cloud measurements. Basically, this involves ice crystal measurements inside the cloud, measurements of the water content to determine where to put the seeding material; measurements of the temperature structure in the cloud to locate the best place to put the ice nuclei. For this, they need a large, suitably equipped aircraft, which in this case would be the B26 the DRI already has. Dr. Kocmond said the Sierra storms are very wet and involve considerable icing inside the storms, and therefore not every kind of aircraft can fly through them.

Dr. Kocmond introduced other members of DRI, Dr. Linkletter, Dr. Hallett, and Dr. Telford, and also pointed out that Tom Henderson, the president of the commercial cloud-seeding firm that would be doing the cloud-seeding for DRI, was present at the hearing.

Chairman Mello said the Committee would first hear from the weather modification contractors present at the hearing.

Dr. John James, President of Mountain West Weather Service, was first to speak. A copy of his statement is attached to these minutes.

Mr. Mello asked if any states allocating monies for cloud-seeding had become involved in litigation because they didn't go to competitive bidding. Dr. James answered that there are none at the present time but there has been some threat and still is of litigation in the north. He added that there was someone present in the hearing who could respond to that issue. Mr. Mello asked for DRI members to respond first to Dr. James' remarks.

Dr. Kocmond commented that Dr. James had asked for a serious cloud-seeding program to be attempted, while at the same time saying they can go ahead and accomplish this based on what is already known about cloud systems. Dr. James had said that meteorologists involved in weather modification activities believe they can operate efficiently with present knowledge, making whatever improvements are necessary as more information comes available. Dr. Kocmond stressed his concern about seeding clouds without more knowledge about the behavior of the cloud systems themselves. He said DRI feels that in order to get vital information, they must fly into the clouds and collect that data on ice crystal measurements. He said there is a very important need for this documentation from the liability standpoint as well,

because in the absence of any data collection or knowledge about what they have done, they are really on weak ground when it comes to supporting their actions.

Dr. George Linkletter commented first that while much research has been done related to weather modification projects, there is an urgent need in several specific areas for more detailed cloud physics research. He said that in the Sierra Cooperative Project, there have been several instances where there has been a need for the integration of cloud physics research along with the experimental seeding program. Regarding the use of ground-based generators, he said there certainly is very strong evidence that in many cases, the ground-based generator seeding has been very effective. However, in the course of the Pyramid Project, they accumulated very specific physical and chemical evidence to indicate that under specific meteorological conditions, the silver iodide released by those generators was in fact not broadly disbursed through the storms, but maintained itself in a very narrow, well-defined plume. DRI did very detailed studies on the silver concentration in the snow during that program, and the data indicates that very often, there is not a broad disbursal, so the effects only reach small portions of the storm.

Dr. Linkletter reiterated what Dr. Smith had said about DRI's concern regarding environmental impact, and he added that he could site evidence that is available regarding environmental impact from winter-time cloud-seeding operations. He said there recently was a meeting of over sixty natural, chemical, and social scientists who concluded that although there are still areas requiring more information, there is no reason to fear the effects that cloud-seeding may have on man and nature. Dr. Linkletter stressed that does not mean potential impacts should not be looked for and monitored, but the concensus of that group was that there is no great threat at the moment.

Dr. Linkletter referred to the San Juan Cloud Seeding Project being done for the Bureau of Reclamation, and said he understood that a volume similar to this was being prepared for the Sierra Cooperative Project. The total results of the very large report on this is summarized in one of the Sierra Cooperative newsletters, and the essential conclusion is that they found no evidence for adverse impact. Increase in snow pack would tend to mean more snow on the ground later into the spring. This would delay certain of the processes of vegetation, and they found that when plants were affected like this, they seemed to be able to compensate during the summer season. For example, they found no changes in the growth rate of trees because their spring activity was delayed. In fact, for some trees, they found an increased growth rate because of the additional water available. One of the real areas of concern regarding environmental impact has to do with the potential effect of silver from the silver iodide generally used in cloud-seeding. This issue has been addressed in several reports, and present data indicates there is no evidence for serious adverse impacts from the silver. Dr. Linkletter said when ground-based generators are used, there is a substantial increase in silver content of the soil within 100 or 200 yards around the generators and pointed out that if airborne seeding were used, they would not have these concentrated spot sources for silver iodide. During the Pyramid Project, DRI had a very extensive program for monitoring silver concentration in the precipitation itself in Lake Tahoe and at numerous points along the Truckee River, and they found no evidence of increases in silver in the lake or river as a result of seeding.

In response to Dr. James' testimony, Dr. Kocmond said he was particularly concerned about one paragraph. He quoted, reading from page 3 of the testimony, "Because the primary concern in Nevada is more water for selected watersheds for the least expense, any cloud-seeding

project in the State should utilize available meteorological and cloud physics data, with some research input along the way in order to reach operations goals. All eight on-going, long-term projects in California operate on this basis and for a great benefit, I might add, and at a large savings to their customers."

Dr. Kocmond said the real fundamental question is how do we know these projects are being operated successfully? Why is there so much controversy surrounding cloud-seeding at this time, and if all this is so well known why is it necessary to understand more about the clouds? Reading on, "Some of these projects have been going on for over twenty years. I don't believe the State of Nevada can afford to allocate a little over \$1 million such as DRI proposes for 2½ winter seasons of cloud-seeding and only three watersheds, one of which is very small, when a good deal of money will go for research." There again, said Dr. Kocmond, this indicates that all they need is available technology and don't really need to do the research, although there is really no demonstrated proof that the effects of seeding have been all that positive. He said he would like to see the proof that projects all over the west are operating successfully.

Mr. Mello asked how much of the \$1 million for the project would be matched by the federal government, and Dr. Smith replied none. Dr. Hallett pointed out that they do have funds for laboratory studies which are related to the project. For example, he has funds which come from the National Science Foundation to study how ice crystals grow and this is obviously relevant. Dr. Telford said he also has National Science Foundation funds to use in conjunction with the aircraft. The aircraft is worth about \$1 million in terms of equipment, and this is funded partly by the NSF and partly by the Air Force. Dr. Kocmond pointed out that they are intending to submit a proposal to get additional funds from the government to evaluate further the results of the Pyramid Project.

Mr. James Conkey read the attached testimony.

After considerable discussion about the merits of a long-term, comprehensive water resources program involving research by DRI, as opposed to an immediate, short-term project to ease the drought situation in Nevada, Mr. Mello dismissed everyone but the members of the Ways and Means Committee and Assemblyman Don Moody.

Mr. Mello commented that it appeared to him that research had little to do with the months that are left in 1977, and that the biggest concern is the emergency drought situation. Mr. Kosinski asked if he were suggesting that the Committee treat the remainder of this biennium separately, and then give further consideration to the research aspect on the next biennium.

Mr. Bremner added that it appeared to him that the money for the rest of this biennium will continue this program to August 31. So this includes summertime seeding; they're not just talking about the end of the current biennium. But if they get the money now, it will include July and August. So the program would be a lot longer.

Bob Weise said he had understood Dr. Kodmond's testimony to mean that the issue wasn't whether or not the commercial operators could or could not get water out of the clouds, but whether they could do the best job of getting the most precipitation possible and whether they really knew what they were doing. He also pointed out that the issue is really the urgency for moisture.

Asked to comment, Don Moody emphasized the need for money now, and whether or not the research portion of the project is completely funded now is less an issue than getting some snow on the ground. The rest of it, he said, is up to the Committee.

Mr. Mello asked Dr. Kocmond to address the Committee again. He told Dr. Kocmond, who was accompanied by Dr. Smith, that the Committee wanted to implement that part of A.B. 279 for 1977 to try to get some needed relief, and then look at another piece of legislation for the coming biennium. He said the main consideration was not to have any research until after July 1, 1977, or on approval and passage of the other piece of legislation.

Dr. Kocmond said that if money were awarded to do commercial cloud seeding without the research capabilities, DRI would be in a very uncertain position relative to all the controversies that have been raised. He said DRI would not be in a position to address those concerns at all if they couldn't tell what the effects of seeding were. They wouldn't know if they were even doing the right thing, and this could do nothing but degrade their overall position in the scientific community.

Mr. Mello commented that Dr. Kocmond was viewing the situation as a scientist rather than concentrating on the emergency drought issue.

Dr. Smith stressed that DRI could not be expected to cloud-seed unless it were done appropriately. He said that as President of DRI, he felt that if they could not do the program in a reliable way, providing what was best for Nevada, he didn't think DRI would want to take on the project at all. Mr. Mello said this was not really DRI's concern. If the Legislature directed them to do the project, he thought they had better do it. Then he asked Dr. Smith and Dr. Kocmond if they would or would not be able to do this project until August of 1977 for less than the \$226,646. Dr. Kocmond said if they devised a program at much less cost, they would have to change the whole design, and Mr. Mello asked for a figure, pointing out that another piece of legislation could possibly provide for more research later. When Dr. Kocmond reiterated what he had said earlier about the comprehensive quality of the project, Mr. Mello asked him to determine the minimum research they could do between now and July to get the project going. He said either do this, or the Committee would ask someone else to bid for the cloud-seeding between now and July.

Bob Weise asked if there were a problem related to putting this together and maintaining continuity between a summer program lasting until July 1st, and continuing later in accordance with other legislation, and Dr. Kocmond said that the biggest problem relates to the actual summer seeding, whether there is a firm basis for doing it. He said they would sit down and talk about fundamental needs in order to devise a realistic program. He pointed out that it would probably not be dramatically different, because it would be almost impossible to do the seeding without some of the supportive needs already discussed.

at 11:00 a.m.

Mr. Mello recessed the hearing/and asked that it be resumed at 2:00 p.m. in order to discuss with DRI an alternate measure.

When the Committee reconvened in the afternoon, Mr. Mello entertained a motion on S.B. 213 regarding a \$500,000 appropriation from the General Fund to keep the Legislature in action. A motion to adopt S.B. 213 was made by Mr. Hickey and seconded by Mr. Vergiels. The motion was approved.

A.B. 279

Dr. Smith reported that the DRI staff had gone over figures with respect to the cloud-seeding program, and in light of Mr. Mello's instructions, had come up with new figures. Dr. Kocmond distributed copies of these figures to members of the Committee. Mr. Mello then specified that everything would be struck from A.B. 279 and the new language would include the figure \$167,004. Speaker Dini asked if they would seed in May and June also, and Dr. Kocmond said that originally they were not, but concern had been voiced about not

seeding then. Mr. Dini said that in June on Walker, they would have problems with people who had hay down. He said if they did any cloud-seeding when the hay's been cut, they would really have trouble with people.

Mr. Serpa said he wanted to see a breakdown so he could tell what is to be bid on; that he wanted to see the criteria they would use to issue the bid. Dr. Kocmond said the part that would be bid on is \$54,850, and asked if there was going to be actual bidding.

Mr. Mello said that would be handled through DRI and Dr. Kocmond said they could draw up specifications and send it out for bids, but they were going to work directly with Tom Henderson and Atmospherics Incorporated, because they were generally judged as the most responsible seeding group. Mr. Mello said he didn't think the concern was about bids at this time; he told the contractors not to be concerned about this piece of legislation.

A motion was made by Mr. Hickey and seconded by Mr. Glover to amend A.B. 279 to read \$167,004 along with the necessary language in the bill. The motion was approved.

Dr. Smith asked what DRI should do over the next two years about submitting further information, and Mr. Mello said he should send information directly to Mr. Dolan who will start a file on this.

The meeting adjourned at 2:20 p.m.

February 28, 1977

MEMORANDUM

TO: Assembly Ways and Means Committee

FROM: Subcommittee on Appropriations for the Support of the
Judicial Selection and Judicial Discipline Commissions

SUBJECT: Subcommittee Recommendations

The Ways and Means Subcommittee on Appropriations for the Support of the Judicial Selection and Judicial Discipline Commissions met on February 25, 1977, and reports the following recommendations:

1. A.B. 305, 1977, be amended to appropriate general fund support of \$19,756, for the remaining approximate four months of 1976-77. This recommendation compares to the total of \$45,500 requested in A.B. 305. The recommended appropriations will permit the hiring of a full-time administrative secretary II (or equivalent) by mid-March 1977, plus initial equipment, machine rentals and operating support for this position. Travel and stipends will permit at least two meetings of the Discipline Commission, four regular meetings of the Selection Commission, and four subcommittee meetings of the Selection Commission. An amount of \$2,500 is also included for "contract services and contingencies" in the event that independent legal, investigative, or research efforts become necessary. A "mock-up" of the recommended amendment is attached.
2. The general fund support for 1977-78 and 1978-79 be included in the General Appropriation Act as a separate budget account under the Supreme Court titled "Judicial Selection and Discipline Commissions." The attached budget summary displays the requested and subcommittee recommended budgets for the 1977-79 biennium. The major difference between the request and subcommittee recommendations is that the subcommittee recommends a one-half time clerical support position (one-quarter time for each commission provided by the same individual) rather than the full-time position requested.

The subcommittee recognizes that it is very difficult to predict either the frequency or complexity of selection or discipline proceedings. A separate budget category contains \$13,200 in 1977-78 and \$14,200 in 1978-79 for required contract services and contingencies should difficult circumstances arise. In addition, a request to the Interim Finance Committee is available if needed.

MEMORANDUM

Assemblyman Ways and Means Committee
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Appended to this report are the names of the commission members, the pertinent constitutional provisions and the budget material submitted with the requests. For your information, the "Rules of the Commission on Judicial Selection" and a selection "Personal Data Questionnaire" are also appended.

The recommendations of the subcommittee are supported by three members, while Mr. Brown recommends the original requested appropriations.

JNK:ym
Attachments

Subcommittee RECOMMEND
AMENDMENT

A. B. 305

ASSEMBLY BILL NO. 305—ASSEMBLYMEN HICKEY, MELLO,
BARENGO, MAY, ROSS AND BROOKMAN

FEBRUARY 14, 1977

Referred to Committee on Ways and Means

SUMMARY—Makes supplemental appropriations to supreme court to support operations of commission on judicial selection and commission on judicial discipline. (BDR S-1288)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: Contains Appropriation.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT making [supplemental] appropriations to the supreme court to support the operations of the commission on judicial selection and commission on judicial discipline; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. There is hereby appropriated from the state general fund
2 to the supreme court as an additional and supplemental appropriation to
3 that allowed and made by section 19 of chapter 679, Statutes of Nevada
4 1975:
5 1. The sum of \$23,700 for the operations of the commission on
6 judicial selection.
7 2. The sum of \$21,800 for the operations of the commission on
8 judicial discipline.
9 SEC. 2. After June 30, 1977, the unencumbered balance of the appro-
10 priations made in section 1 shall not be encumbered and shall revert to
11 the state general fund.
12 SEC. 3. This act shall become effective upon passage and approval.

{ the sum of \$19,756 to support the operations of the commission on judicial selection and commission on judicial discipline.

BUDGET SUMMARY - JUDICIAL SELECTION AND DISCIPLINE COMMISSIONS

JUDICIAL SELECTION COMMISSION (7 MEMBERS)

	<u>1976-77</u>		<u>1977-78</u>		<u>1978-79</u>	
	Subcommittee		Subcommittee		Subcommittee	
	<u>Request</u>	<u>Recommendation</u>	<u>Request</u>	<u>Recommendation</u>	<u>Request</u>	<u>Recommendation</u>
Clerical	\$ 3,100	\$ 1,365	\$ 7,345	\$ 2,658	\$ 7,860	\$ 2,790
Payroll Costs	500	193	1,065	372	1,140	391
Personnel	\$ 3,600	\$ 1,558	\$ 8,410	\$ 3,030	\$ 9,000	\$ 3,181
Stipend	5,800	1,920	5,800	5,800	5,800	5,800
Travel	6,000	2,720	6,000	6,000	6,600	6,600
General Operating	2,000	1,000	2,000	2,000	2,000	2,000
Machine Rental	1,000	600	1,000	1,000	1,000	1,000
Contract & Contingency	3,000	1,000	4,500	4,500	5,000	5,000
Equipment	2,300	2,300	- -	- -	- -	- -
Total	<u>\$23,700</u>	<u>\$11,098</u>	<u>\$27,710</u>	<u>\$22,330</u>	<u>\$29,400</u>	<u>\$23,581</u>

JUDICIAL DISCIPLINE COMMISSION (7 MEMBERS)

Clerical	\$ 3,100	\$ 1,365	\$ 7,345	\$ 2,658	\$ 7,860	\$ 2,790
Payroll Costs	500	193	1,065	372	1,140	391
Personnel	\$ 3,600	\$ 1,558	\$ 8,410	\$ 3,030	\$ 9,000	\$ 3,181
Stipend	800	200	800	800	800	800
Travel	4,100	1,500	4,500	4,500	5,000	5,000
General Operating	2,000	1,000	2,000	2,000	2,000	2,000
Machine Rental	1,000	600	1,800	1,800	1,800	1,800
Contract & Contingency	8,000	1,500	8,700	8,700	9,200	9,200
Equipment	2,300	2,300	- -	- -	- -	- -
Total	<u>\$21,800</u>	<u>\$ 8,658</u>	<u>\$26,210</u>	<u>\$20,830</u>	<u>\$27,800</u>	<u>\$21,981</u>
Total - Commissions	\$45,500¹	\$19,756¹	\$53,920	\$43,160²	\$57,200	\$45,562²

1/ Amounts requested and recommended for A.B. 305, 1977.

2/ Amounts recommended for general fund appropriation in the 1977-79 General Appropriation Act as a separate budget account under the Supreme Court titled "Judicial Selection and Discipline Commissions."

JUDICIAL SELECTION COMMISSION

Cameron Batjer

John Foley

Earl Hill

Peter Laxalt

Bonnie Borda

Deborah Sheltra

Sandra Sisson

~~as President of the Senate, shall each, during the time of their actual attendance as such presiding officers receive an additional allowance of two dollars per diem.—be approved?~~

~~Yes.....
No.....~~

Statements for the Printed and Punchcard Ballots

The following language should appear on the printed and punchcard ballots:

Question No. 3
Amendment to the Constitution.

Shall—Assembly Joint Resolution No. 26 of the 57th Session (1973), approved by the 58th Session (1975), proposing to amend section 33 of article 4 of the Constitution of the State of Nevada, be approved?

Yes.....
No.....

(Explanation of Question No. 3)

A majority vote of "yes" would amend section 33, article 4 of the Constitution which currently provides that Members of the Legislature shall receive compensation for their services for a period of time not to exceed sixty (60) days during each regular session of the Legislature. This resolution would amend that provision by providing that Members of the Legislature shall receive compensation for their services for a period of time not to exceed one hundred (100) days during each regular session of the Legislature. A majority vote of "no" would defeat the amendment.

QUESTION NO. 4

Amendment to the Constitution

Senate Joint Resolution No. 10 of the 57th Session—File No. 43
File No. 46—58th Session

Shall—Senate Joint Resolution proposing to amend section 14 of article 5 of the Constitution of the State of Nevada to permit the Legislature to enact laws enabling courts inferior to district courts to suspend sentences and grant probation.

Resolved by the Senate and Assembly of the State of Nevada, jointly, That section 14 of article 5 of the constitution of the State of Nevada be amended to read as follows:

Sec. 14. The governor, justices of the supreme court, and attorney general, or a major part of them, of whom the governor shall be one, may, upon such conditions and with such limitations and restrictions as they may think proper, remit fines and forfeitures, commute punishments, and grant pardons, after convictions, in all cases, except treason and impeachments, subject to such regulations as may be provided by law relative to the manner of applying for

~~pardons. The legislature [is authorized to] may pass laws conferring upon the district and inferior courts authority to suspend the execution of sentences, fix the conditions for, and to grant probation, and within the minimum and maximum periods authorized by law, fix the sentence to be served by the person convicted of crime in said courts.—be approved?~~

~~Yes.....
No.....~~

Statements for the Printed and Punchcard Ballots

The following language should appear on the printed and punchcard ballots:

Question No. 4
Amendment to the Constitution.

Shall—Senate Joint Resolution No. 10 of the 57th Session (1973), approved by the 58th Session (1975), proposing to amend section 14 of article 5 of the Constitution of the State of Nevada, be approved?

Yes.....
No.....

(Explanation of Question No. 4)

A majority vote of "yes" would amend section 14, article 5 of the Constitution by enabling justice and municipal courts to suspend sentences and grant probation. At the present, only district courts can suspend sentences and grant probation. A majority vote of "no" would defeat the amendment.

Art. 6 § 20

QUESTION NO. 5

Amendment to the Constitution

Assembly Joint Resolution No. 14 of the 57th Session—File No. 105
File No. 30—58th Session

Shall—Assembly Joint Resolution proposing to change the State Constitution to provide for appointment of judicial officers, to fill vacancies during a term of office, under a plan of merit selection.

Resolved by the Assembly and Senate of the State of Nevada, jointly, That article 6 of the constitution of the State of Nevada be amended by adding thereto a new section to be designated section 19, provided that:

1. If Assembly Joint Resolution 17 of the 57th session is agreed to and passed, this new section shall be designated as section 20, 21 or 22, as determined by the secretary of state, depending on whether Assembly Joint Resolution 18 of the 57th session, or both, are agreed to and passed.

2. If Assembly Joint Resolution 17 of the 57th session is not agreed to and passed, this new section shall be designated as section 19, 20 or 21, as determined by the secretary of state, depending on

whether Assembly Joint Resolution 16 or Assembly Joint Resolution 18 of the 57th session, or both, are agreed to and passed, and section 22 of article 17 of the constitution of the State of Nevada be amended to read respectively as follows:

Sec. 19. 1. When a vacancy occurs before the expiration of any term of office in the supreme court or among the district judges, the governor shall appoint a justice or judge from among three nominees selected for such individual vacancy by the commission on judicial selection.

2. The term of office of any justice or judge so appointed expires on the first Monday of January following the next general election.

3. Each nomination for the supreme court shall be made by the permanent commission, composed of:

- (a) The chief justice or an associate justice designated by him;
(b) Three members of the State Bar of Nevada, a public corporation created by statute, appointed by its board of governors; and
(c) Three persons, not members of the legal profession, appointed by the governor.

4. Each nomination for the district court shall be made by a temporary commission composed of:

- (a) The permanent commission;
(b) A member of the State Bar of Nevada resident in the judicial district in which the vacancy occurs, appointed by the board of governors of the State Bar of Nevada; and
(c) A resident of such judicial district, not a member of the legal profession, appointed by the governor.

5. If at any time the State Bar of Nevada ceases to exist as a public corporation or ceases to include all attorneys admitted to practice before the courts of this state, the legislature shall provide by law, or if it fails to do so the court shall provide by rule, for the appointment of attorneys at law to the positions designated in this section to be occupied by members of the State Bar of Nevada.

6. The term of office of each appointive member of the permanent commission, except the first members, is 4 years. Each appointing authority shall appoint one of the members first appointed for a term of 2 years. If a vacancy occurs, the appointing authority shall fill the vacancy for the unexpired term. The additional members of a temporary commission shall be appointed when a vacancy occurs, and their terms shall expire when the nominations for such vacancy have been transmitted to the governor.

7. An appointing authority shall not appoint to the permanent commission more than:

- (a) One resident of any county.
(b) Two members of the same political party.

No member of the permanent commission may be a member of a commission on judicial discipline.

8. After the expiration of 30 days from the date on which the commission on judicial selection has delivered to him its list of nominees for any vacancy, if the governor has not made the appointment required by this section, he shall make no other appointment to any

public office until he has appointed a justice or judge from the list submitted.

If a commission on judicial selection is established by another section of this constitution to nominate persons to fill vacancies on the supreme court, such commission shall serve as the permanent commission established by subsection 3 of this section.

[Sec.] Sec. 22. In case the office of any [Justice of the Supreme Court, District Judge or other] State officer, except a judicial officer, shall become vacant before the expiration of the regular term for which he was elected, the vacancy may be filled by appointment by the Governor until it shall be supplied at the next general election, when it shall be filled by election for the residue of the unexpired term.—be approved?

Yes.....[]
No.....[]

Statements for the Printed and Punchcard Ballots

The following language should appear on the printed and punchcard ballots:

Question No. 5
Amendment to the Constitution.

Shall—Assembly Joint Resolution No. 14 of the 57th Session (1973), approved by the 58th Session (1975), proposing to amend article 6 of the Nevada Constitution by adding a new section, and also amending section 22 of article 17 of the Nevada Constitution, be approved?

Yes.....[]
No.....[]

(Explanation of Question No. 5)

A majority vote of "yes" would amend article 6 of the Constitution by providing that vacancies in the office of Supreme Court Justice or district judge shall be filled by the Governor choosing from a list of three (3) nominees selected for such a vacancy by a commission on judicial selection. Justices or judges filling such vacancies would hold office until the first Monday of January following the next general election. Nominations for vacancies in the Supreme Court would be made by a permanent commission composed of the Chief Justice or an Associate Justice of the Supreme Court, three (3) members of the State Bar of Nevada, and three (3) persons, not members of the legal profession, appointed by the Governor. Nominations for vacancies in the office of district judge would be made by a temporary commission composed of the permanent commission, a member of the State Bar residing in the judicial district in which the vacancy occurs and a resident of such a judicial district, not a member of the legal profession, appointed by the Governor. Members of the permanent commission would hold office for four (4) years. Members of the temporary commission would hold office until such time as nominations were transmitted to the Governor.

JUDICIAL SELECTION COMMISSION

1. Assistant Commission Secretary (.5)

The commission, in conjunction with the Judicial Discipline Commission, requests funding for one full-time position. This position is needed as assistant to the court administrator, who has been designated commission secretary to both commissions, in the processing of the commission's business.

~~Each commission feels that although secretarial assistance~~
is desperately needed and is fully justified in light of the constitutional duties of the commissions, it is premature to request full-time assistance for each commission. With no long period of experience to go on, the commissions, in separate meetings, decided to request part-time assistance and rely on the staff of the court administrator in times of high volume.

The qualifications and experience for this highly confidential position should be no less than those of a confidential secretary to a justice of the supreme court, and the pay range should be commensurate. The person filling this position will be physically located in the office of court administration.

2. The payroll costs are estimated, and reflect approximate costs. Actual costs will be budgeted via the state budget office when the work program is established.

3. The amounts reflect a requested \$40 per day stipend for non-judge members for each day spent on commission business. There are six non-judge members. The commission estimates that the

commission will require 145 FTE meeting days for the selection process. This consists of 12 full meetings of the commission (6 x 12 = 72) and 73 FTE meeting days by subcommittees, additional members in the case of selection of district judges, and related activities. (73 + 72 = 145 x 40 = 5800.)

4. The travel request reflects the 12 meetings mentioned in 3. above, plus travel required for the subcommittee work. The commission membership reflects two members from Reno, two from Carson City, two from Las Vegas, one from Gardnerville, and the commission secretary/assistant secretary from Carson City.

----- Given this geographic distribution, the costs of travel, as computed for a possible meeting place schedule, are as follows:

Reno	Travel	\$201.50	Subsistence	\$48.50
	Five meetings @	\$250.00	=	\$1,250.00
Las Vegas	Travel	\$478.00	Subsistence	\$82.00
	Five meetings @	\$560.00	=	\$2,800.00
Elko	Travel	\$800.00	Subsistence	\$90.00
	One meeting @	\$890.00	=	\$890.00
Ely	Travel	\$640.00	Subsistence	\$420.00
	One meeting @	\$1,060.00	=	\$1,060.00

Approximate total for full commission meetings = \$6,000.00

The meeting places will vary depending upon the vacancies

and the work of the commission. Vacancies are difficult to project.

5. Operating money is needed for basic maintenance of a commission "home," including such items as telephone, postage, stationery, desk supplies and equipment, etc., as well as printing and copying. The commission requests \$2,000 in this area, with most of it (\$1,400) in copying and telephones.

Other contract services (\$1,000) provides for rental of office equipment. Because of the repetitive typing needs of this commission, as well as the volume as experienced to date, the commissions at this time anticipate using a Mag Card II typewriter or an equivalent machine.

The largest single item under operating is \$3,000 in contract services. This money is budgeted in two subcategories. The first is a reserve of \$2,100 for independent legal work. This is based upon 70 hours of work at \$30.00 per hour, which is taken from existing rates in the public defender program. The work that would possibly be performed here includes independent legal research and investigations, research, and/or report/material preparations that cannot be, because of time or conflict, performed by the staff of the office of court administration. The balance (\$900) is reserved for publishing materials, renting of meeting facilities if needed, and other items that may come to the attention of the commission.

6. Office furniture and equipment covers one-half the basic work module for the assistant secretary and one-half the cost of a modern filing system, all of which will be shared between the commissions.

The filing system is needed for the permanent storage of numerous confidential documents and restricted access. The system recommended is the Lectriever 600 or its equivalent. A system of this nature is required because of the extremely limited floor space in the supreme court and the need for rapid retrieval from a lockable security file.

GENERAL COMMENTS ON THE COMMISSION'S BUDGET REQUESTS

1. The commissions' will undoubtedly be reverting large portions of the legal contractual money since no known issues requiring these services are present.
2. If the organizational matters of the commission on Judicial Discipline are settled quickly, there may be some reversion there from travel.
3. The initial costs to be experienced this spring to get the "office" matters of the commissions set up are higher than the requested amounts in ensuing years. This relates to stationery, basic supplies, equipment and desk equipment (staples, etc.).
4. The court administrator will recruit for the assistant commission secretary and the two commission chairmen will make the final decision.

JUDICIAL SELECTION COMMISSION

	76-77	77-78	78-79
1. ASSISTANT COMMISSION SECRETARY (.5)	\$3,100	\$7,345	\$7,860
2. PAYROLL COSTS	500	1,065	1,140
3. COMMISSIONERS	5,800	5,800	5,800
4. IN-STATE TRAVEL	6,000	6,000	6,600
5. OPERATING	6,000	7,500	8,000
6. EQUIPMENT	2,300	Ø	Ø
	<hr/>	<hr/>	<hr/>
	\$23,700*	\$27,710**	\$29,400**

* AB 305

** IN BILL DRAFTING

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STATE OF NEVADA

COMMISSION ON JUDICIAL SELECTION

RULES

RULE 1: COMMISSION CHAIRPERSON

The commission shall elect, for a term of one year, from among its number a chairperson and a vice-chairperson.

RULE 2: COMMISSION SECRETARY

The Judicial Planner of the Supreme Court of Nevada shall serve as secretary to the commission until such time as a state court administrator is appointed. Thereafter, the state court administrator shall serve as secretary. It shall be the duty of the secretary to prepare and keep the minutes of all meetings. In the secretary's absence the commission shall choose a member to be the acting secretary. The minutes of all executive sessions shall be kept confidential.

RULE 3: COMMISSION MEMBERS

a. A commissioner shall consider each potential nominee for a judicial office in an impartial, objective manner. A commissioner shall not consider the race, religion, sex or political affiliation of a potential nominee.

b. If a commissioner knows of any personal or business relationship which he/she or another commission member has with a potential nominee and the relationship may influence, or appear to influence, the decision of the commissioner as to this potential nominee, the commissioner shall report this fact to the chairman. Such report shall be included within the minutes or otherwise in writing made a part of the proceedings of the commission. If a majority of the commission determines that such a relationship may unduly influence the commissioner's decision as to this potential nominee, the commissioner shall not vote upon the potential nominee, and this fact shall be noted in the records of the commission relating to the potential nominee.

c. A commissioner shall not attempt to influence the decision of another commissioner by presenting him/her with facts or opinions not relevant to the judicial qualifications of the potential nominee.

d. A commissioner shall not allow any person or organization to influence him/her with facts or opinions other than those which are relevant to the judicial qualifications of the potential nominee, and shall promptly report any such attempt to the chairperson.

RULE 4: CONFIDENTIALITY

All correspondence and communications received concerning any person, and all records and deliberations of the commission concerning any person, shall be held in complete confidence by the commission except as provided in rule 10.

RULE 5: COMMISSION MEETINGS

a. Meetings of the commission may be called by the chairperson or a majority of the members by written notice and personal telephone call to the other members specifying the time and place of meeting. Such notice shall be made at least seven days before the time specified, except that a meeting may be held on shorter notice if the notice specifies that the meeting will be an emergency meeting. Notice of meeting may be waived by any commissioner either before or after the meeting takes place; and attendance at a meeting by any member shall constitute a waiver of notice by such member unless he or she shall, at or promptly after the beginning of such meeting, object to the holding of the meeting on the ground of lack of, or insufficiency of, notice.

b. Meetings of the commission may be held without notice at any time or place whenever

(1) the meeting is one as to which notice is waived by all members; or

(2) the commission, at a meeting, designates the time and place for a subsequent meeting and the secretary so informs any absent member.

c. Within five business days from the date upon which the existence or anticipated existence of a vacancy in judicial office within the purview of the commission's competence is communicated to the chairperson, the chairperson shall notify the members of the commission.

d. A quorum for the permanent commission shall be five commissioners. A quorum for the temporary commission shall be seven commissioners. The commission may act on any matter by majority vote of the commissioners present and voting on the matter except as provided in rule 7.

e. The chairperson shall call at least one public meeting each year for the principal purpose of reviewing commission operating procedure and briefing new commissioners on the rules of procedure of the commission. The purpose of the public meeting is also to consider what particular qualifications, if any, may be needed for the various judicial offices in the state. Comments relative to the qualifications of any specific person may be submitted to the commission at the public meeting, but shall be submitted only in writing.

RULE 6: RECRUITMENT OF POTENTIAL NOMINEES

a. Commissioners should always keep in mind that often the persons with the highest qualifications will not actively seek judicial appointment. Commissioners may actively seek out and encourage qualified individuals to apply for judicial office. It is incumbent upon the commissioners to encourage well qualified persons to agree to accept nomination even if a commissioner is so intimately acquainted with such a person that the commissioner may ultimately be unable to vote (pursuant to rule 3b) for this person's nomination. The person shall seek the submittal of such names from the broadest possible sources by the use of all available media and otherwise, and shall treat alike all names received from all sources.

b. Each potential nominee shall receive a personal data questionnaire, and any other material as the commission may from time to time determine, provided only that each potential nominee for any particular position shall receive the same material.

RULE 7: PRELIMINARY SCREENING OF POTENTIAL NOMINEES

As soon as the preliminary background information on each potential nominee has been compiled and the information forwarded to each commissioner, the commission may meet to eliminate from further consideration those persons, if any, whom at least five permanent commission members considering a potential nominee for the supreme court, or at least seven temporary commission members considering a potential nominee for a district court, determine to be unqualified for the office under consideration, to plan for the screening of the remaining potential nominees, and to receive such further information regarding any person as it shall consider appropriate. Depending upon the number of persons remaining for further consideration, the commission may form subcommittees composed of both lay and lawyer members and compile further background information on each potential nominee. Potential nominees may be interviewed by the commission as a whole or by a subcommittee thereof.

RULE 8: INVESTIGATION OF POTENTIAL NOMINEES

Commissioners shall conduct investigations into the background and qualifications of potential nominees. Subcommittees composed of both lay and lawyer members may be designated for this purpose by the chairperson. Using a personal data questionnaire as a starting point, the subcommittee may contact as many of the individuals and institutions mentioned in the potential nominee's questionnaire as it deems beneficial. However, the commission or any subcommittee need not limit itself to the questionnaire; it may contact as many individuals and groups from the potential nominee's community or elsewhere as is practicable in an effort to obtain as much background information on the potential nominee as possible. It is the intention of this rule that the broadest possible evaluation of each potential nominee's qualifications be made.

RULE 9: SELECTION OF NOMINEES

a. When all relevant background information on each potential nominee has been compiled and all interviews have been completed by the commission or a subcommittee or subcommittees of the commission, the commission shall meet for the purpose of selecting nominees to be sent to the Governor for a particular office. No persons other than the commission members and its secretary may attend such meetings.

b. Before proceeding to a vote on the potential nominees, the chairperson shall read the names of the potential nominees in alphabetical order and if a member of the subcommittee has been charged with inquiring into a particular potential nominee's background he or she shall report on the results of the subcommittee's investigation of that potential nominee as the potential nominee's name is announced by the chairperson. Thereafter, the chairperson shall open the meeting to a discussion of that particular potential nominee's qualifications for judicial office. After this procedure has been followed for each potential nominee, the chairperson shall open the meeting to a general discussion of the relative qualifications of all the potential nominees.

c. Upon completion of the discussion of the potential nominees' qualifications, the commission shall vote. Voting shall be conducted by secret ballot.

RULE 10: TRANSMITTAL TO THE GOVERNOR

a. The names of the nominees, listed in alphabetical order, shall be hand delivered to the Governor.

b. At the discretion of the commission, other information may be furnished to the Governor at his request.

c. Except as provided in sections a and b above, the names of the nominees shall remain confidential.

RULE 11: PUBLIC COMMUNICATIONS

a. The commission will encourage communications between itself and groups and individuals concerned with the administration of justice. The commission will welcome and encourage transmittal of views relative to the needs of the courts and identification of potential nominees for judicial office.

b. Official announcements concerning the work of the commission shall customarily be made by the chairperson. All commission members, however, are permitted and encouraged to communicate with the public generally regarding the commission, agreeably to these rules.

RULE 12: AMENDMENT

Any provision of these rules of procedure may be amended by the commission from time to time, provided only that no amendment shall take effect except upon the affirmative vote of at least five permanent commission members.

STATE OF NEVADA
COMMISSION ON JUDICIAL SELECTION
PERSONAL DATA QUESTIONNAIRE

In answering these questions, please use letter size paper. Repeat each question and place your answer immediately beneath it. Please mail promptly the original and seven (7) copies to CHAIRMAN, COMMISSION ON JUDICIAL SELECTION, SUPREME COURT BUILDING, CAPITOL COMPLEX, CARSON CITY, NEVADA 89710. Please mark the envelope "Personal and confidential." Questionnaires will be held confidential and will be retained for two years from date of receipt. If you wish to be considered for a future vacancy, please send a letter of interest at that time.

GENERAL

1. Full name; office and home addresses; date and place of birth.
2. Please state your citizenship.
3. Marital status; spouse's name and occupation; list any prior marriages, including names and occupations of spouses.
4. Names of your children, their ages, addresses and present occupations.
5. List all places of residence, and inclusive dates thereof, since admission to the Nevada Bar.
6. Periods of military service, dates, branch in which you served, your rank or rate.
7. Please list any avocational interests and hobbies.

EDUCATION

8. Name and address of each college, graduate school and law school you attended, dates of attendance, the degree awarded, reason for leaving each school if no degree was awarded from that institution.

9. State the significant activities in which you took part during the period of your attendance at college, graduate school and law school, giving dates and offices or leadership positions, if any, which you held.
10. List the books, articles, speeches and important public statements you have published, or examples of opinions you have rendered, giving the citations and dates.
11. Over the past five years have you taught any courses on law or lectured at bar association conferences, law school forums, or continuing legal education programs? Please describe.

LAW PRACTICE

12. Year you were admitted to the Nevada Bar.
13. Courts (other than Nevada State Courts) and year of admission in which you are presently admitted to practice (include inactive memberships).
14. Nature of your law practice after your graduation from law school; dates, names and address of all law offices, companies or governmental agencies with which you are or have been connected, the nature of your connection with each, whether you practice alone, and any other relevant particulars such as clerkships to judges.
15. Are you actively engaged in the practice of law at the present time? If you are connected with a firm, please state its name, address, telephone number and indicate the nature and duration of your relationship.

(If you are presently on the bench, please answer questions 16, 17, 18, and 21 for your practice prior to becoming a judge.)
16. What is the general character of your practice? Do you possess any legal specialities? If the nature of your practice has been substantially different at any time in the past, give the details, including the character of such and the period involved.
17. (a) Estimate what percentage of your work over the past 5 years has involved appearance in court, distinguishing between trial courts and appellate courts.

(b) Approximately what percentage of your litigation in the past 5 years was:
 - (1) Civil
 - (2) Criminal
 - (3) Administrative

- (c) Approximately what percentage of your trials in the last 5 years was:
- (1) Jury
 - (2) Non-jury
- (d) State the approximate number of cases you have tried during the past 5 years.
- (e) Please list courts and counties in any state where you have practiced during the past 5 years.

18. If you have been a member of any bar for over five years, please summarize your experience in court prior to the last 5 years. If during any prior period you appeared in court with greater frequency than during the last 5 years, indicate the periods during which this was so and give for such prior periods a succinct statement of the part you played in the litigation and whether jury or non-jury.

19. To the best of your recollection, list by case name, court, presiding Judge and all counsel appearing therein the five (5) most significant cases in which you have been involved during your legal career, including a brief explanation of the importance of each case and a brief description of your participation in each case.

20. List all bar associations and professional societies of which you are or have been a member and give the titles and the dates of any offices which you have held in such groups. List also chairmanships or any committees in bar associations and professional societies, and memberships of any committees which you believe to be of particular significance. Exclude information regarding political affiliation.

21. ~~During the past five years have you done any pro bono or public interest work as a lawyer? If so, please describe.~~

22. Please list every course, seminar, or institute relating to continuing legal education which you have attended in the past ten (10) years.

BUSINESS INVOLVEMENT

23. Have you ever been engaged in any occupation, business, or profession other than judicial office or the practice of law? If so, please give the details, including dates and percentages of time spent in such occupation during the last five years. If you are presently on the bench, please give the details requested above for the total time you have been on the bench and the five years immediately prior to going on the bench.

24. Do you serve as an administrator, executor, trustee, or in any other fiduciary capacity? If so, please give details. If you are now an officer or director of any business organization or otherwise engaged in any business enterprise, please give the name and address of the enterprise, the nature of the business, the title of your position, the nature of your duties, the term of your service, and the percentage of your ownership.

CIVIC AND COMMUNITY INVOLVEMENT

25. Have you ever held judicial office? If so, give details, including the courts involved and the periods of service.
26. Have you ever held public office other than a judicial office, or have you ever been a candidate for such an office? If so, give details, including the offices involved, whether elected or appointed, and the length of your service, but excluding information regarding political affiliation.
27. State the significant civic activities in which you have taken part, giving dates and offices or leadership positions, if any, you have held.
28. State the significant educational, charitable, fraternal and church activities in which you have taken part, giving dates and offices or leadership positions, if any you have held.
29. List any honors, prizes, awards, or other forms of recognition which you have received.

CONDUCT

30. Have you ever been arrested, charged or held by federal, state or other law enforcement authorities, including the I.R.S. and S.E.C., or convicted for violation of any federal, state or municipal law, regulation or ordinance? If so, give details. Do not include traffic violations involving fines of less than \$30.00, or juvenile offenses.
31. Have you ever been sued by a client, or former client? If so, please give particulars.
32. Have you ever been a party or otherwise involved in any other legal proceedings? If so, give particulars. Do not list proceedings in which you were merely a guardian ad litem or stockholder. Include all legal proceedings in which you were a party in interest, a material witness, where named as a co-conspirator or a co-respondent, and any grand jury investigation in which you figured as a subject, or in which you appeared as a witness.

33. Have you ever been called to appear before a bar association grievance committee, disciplined, or cited for a breach of ethics or unprofessional conduct by any court or bar association? If so, please give particulars. Are any complaints now pending?
34. Have you filed federal income tax returns for each of the past taxable years? If not, state reasons.

HEALTH

35. What is the present state of your health?
- (a) If you have ever been hospitalized or prevented from working due to injury or mental or physical illness or otherwise incapacitated for a period in excess of two weeks, please give the particulars, including the causes, the dates, places of confinement, and the present status of the conditions which caused the confinement or incapacitation.
- (b) Are you now or have you ever been treated for alcoholism, drug addiction, or mental illness? If so, please set forth the details of such treatment.
- (c) Do you presently suffer from alcoholism, drug addiction or mental illness?
36. Please list by name and address all physicians, hospitals, clinics or others from whom you have received any medical attention during the past five years including in each case the nature of such treatment.
37. Have you ever consulted a psychiatrist, psychologist, or other mental health worker concerning yourself? If so, please state details.

OTHER

38. Please list the names, addresses, and telephone numbers of three or more references who are lawyers or judges, and who are familiar with your professional activities, who would recommend you as qualified to serve on the judiciary.
39. Please list the names, addresses and telephone numbers of three or more persons who are neither lawyers nor judges with whom you have had contact other than professionally, who would recommend you as qualified to serve on the judiciary.

40. Please include any further information relative to your candidacy or qualifications that you wish to transmit to the commission at this time.

41. Please execute the attached waivers. Please add the following statement and sign:

I hereby certify that the answers and information provided herewith are true and correct to the best of my knowledge.

s/ _____

Date _____

STATE OF NEVADA)
)
) ss
)
)
_____)

The undersigned, upon oath, deposes and states as follows: that (he) (she) is the person whose signature appears hereinabove on the instrument entitled "Personal Data Questionnaire;" that (he) (she) has read the same and is aware of the content thereof; that the same is true and correct according to the best knowledge and belief of the undersigned; and that (he) (she) executed the same freely and voluntarily.

s/ _____

Subscribed and sworn to before me this _____ day of _____, 19____.

(Stamp)

Notary Public

Submission of Application; Agreement to Accept Appointment

The undersigned hereby submits his application for nomination and appointment to the office of (Justice of the Supreme Court of Nevada) (District Judge of the _____ District Court of the State of Nevada in and for the County of _____); hereby consents to the inclusion of his name in a list of three nominees to be presented to the Governor, and hereby agrees to serve in said office if appointed by the Governor.

s/ _____

Date _____

STATE OF NEVADA)
)
) ss
)
_____)

The undersigned, upon oath, deposes and states as follows: that (he) (she) is the person whose signature appears hereinabove on the instrument entitled "Submission of Application; Agreement to Accept Appointment;" that (he) (she) has read the same and is aware of the content thereof; that the same is true and correct according to the best knowledge and belief of the undersigned; and that (he) (she) executed the same freely and voluntarily.

s/ _____

Subscribed and sworn to before me this _____ day of _____, 19__.

(Stamp)

Notary Public

Medical Waiver and Consent

The undersigned applicant hereby waives the physician-patient privilege of confidentiality, and does hereby consent that the Nevada Commission on Judicial Selection may examine and copy any and all medical records bearing upon his present state of health in the custody of any physician or health care agency.

s/ _____

Date _____

STATE OF NEVADA)
)
) ss
)
_____)

The undersigned, upon oath, deposes and states as follows: that (he) (she) is the person whose signature appears hereinabove on the instrument entitled "Medical Waiver and Consent;" that (he) (she) has read the same and is aware of the content thereof; that the same is true and correct according to the best knowledge and belief of the undersigned; and that (he) (she) executed the same freely and voluntarily.

s/ _____

Subscribed and sworn to before me this _____ day of _____, 19__.

(Stamp)

Notary Public

Waiver of Confidentiality -- Law Enforcement, Professional

Disciplinary Bodies, Judicial Disciplinary Bodies

The undersigned applicant hereby waives the benefits of any statute, rule or regulation prescribing confidentiality of records of any state or federal law enforcement agency, any administrative or disciplinary committee of the State Bar of Nevada, and the Nevada Commission on Judicial Discipline, and does hereby release and discharge the Nevada Commission on Judicial Selection, its individual members as now or hereafter constituted, any such law enforcement agency or members thereof, any such administrative or disciplinary committee or members thereof, and the Nevada Commission on Judicial Discipline and its members, as now or hereafter constituted, of and from all claims, demands, liability, and damages in any way arising out of the release and use of information concerning applicant on file with any of said bodies, and hereby authorize the Commission on Judicial Selection to obtain from applicant's physician(s) a full report of applicant's present physical condition, and further authorize said physician(s) to prepare and release such report to the Commission.

s/ _____

Date _____

STATE OF NEVADA)
)
) ss
)
)
_____)

The undersigned, upon oath, deposes and states as follows: that (he) (she) is the person whose signature appears hereinabove on the instrument entitled "Waiver of Confidentiality -- Law Enforcement, Professional Disciplinary Bodies, Judicial Disciplinary Bodies;" that (he) (she) has read the same and is aware of the content thereof; that the same is true and correct according to the best knowledge and belief of the undersigned; and that (he) (she) executed the same freely and voluntarily.

s/ _____

Subscribed and sworn to before me this _____ day of _____, 19__.

(Stamp)

Notary Public

JUDICIAL DISCIPLINE COMMISSION

J. Charles Thompson

Stanley Smart

Roscoe Eardley

John Peter Lee

Jack McCloskey

Renee Diamond

Eleanore Bushnell

7 Oct 6 521

QUESTION NO. 8
Amendment to the Constitution

Assembly Joint Resolution No. 16 of the 57th Session—File No. 106
File No. 112—58th Session

Shall—Assembly Joint Resolution proposing to amend the judicial article of the State Constitution by providing for the discipline of incumbent judges.

Resolved by the Assembly and Senate of the State of Nevada, jointly, That section 5 of article 6 of the constitution of the State of Nevada be amended, and article 6 of the constitution of the State of Nevada be further amended by adding thereto a new section to be designated section 19, provided that:

1. If Assembly Joint Resolution 17 of the 57th session is agreed to and passed, this new section shall be designated as section 20, 21 or 22, as determined by the secretary of state, depending on whether Assembly Joint Resolution 14 or Assembly Joint Resolution 18 of the 57th session, or both, are agreed to and passed.

2. If Assembly Joint Resolution 17 of the 57th session is not agreed to and passed, this new section shall be designated as section 19, 20 or 21, as determined by the secretary of state, depending on whether Assembly Joint Resolution 14 or Assembly Joint Resolution 18 of the 57th session, or both, are agreed to and passed, to read respectively as follows:

[Sec:] *Sec. 5.* The State is hereby divided in to Nine Judicial Districts of which the county of Storey shall constitute the First; The county of Ormsby the Second; the county of Lyon the Third; The county of Washoe the Fourth; The counties of Nye and Churchill the Fifth; The county of Humboldt the Sixth; The county of Lander the Seventh; The county of Douglas the Eighth; and the county of Esmeralda the Ninth. The county of Roop shall be attached to the county of Washoe for judicial purposes until otherwise provided by law. The Legislature may, however, provide by law for an alteration in the boundaries or divisions of the Districts herein prescribed, and also for increasing or diminishing the number of the Judicial Districts and Judges therein. But no such change shall take effect, except in case of a vacancy, or the expiration of the term of an incumbent of the Office. At the first general election under this Constitution there shall be elected in each of the respective Districts (except as in this Section hereafter otherwise provided) One District Judge, who shall hold Office from and including the first Monday of December AD. Eighteen hundred and Sixty four and until the first Monday of January in the year Eighteen hundred and Sixty seven. After the said first election, there shall be elected at the General election which immediately precedes the expiration of the term of his predecessor, One District Judge in each of the respective Judicial Districts (except in the First District as in this Section hereinafter provided.) The District Judges shall be elected by the qualified electors of their respective districts, and shall hold office for the term of [four Years] 6 years (excepting those elected at said first election) from and including the first Monday of January, next succeeding their

election and qualification; Provided, that the First Judicial District shall be entitled to, and shall have Three District Judges, who shall possess co-extensive and concurrent jurisdiction, and who shall be elected at the same times, in the same manner, and shall hold office for the like terms as herein prescribed, in relation to the Judges in other Judicial Districts, any one of said Judges may preside on the empanneling [empaneling] of Grand Juries and the presentment and trial on indictments, under such rules and regulations as may be prescribed by law.

Sec. 19. 1. A justice of the supreme court or a district judge may, in addition to the provision of article 7 for impeachment, be censured, retired or removed by the commission on judicial discipline. A justice or judge may appeal from the action of the commission to the supreme court, which may reverse such action or take any alternative action provided in this subsection.

2. *The commission is composed of:*

(a) *Two justices or judges appointed by the supreme court;*

(b) *Two members of the State Bar of Nevada, a public corporation created by statute, appointed by its board of governors; and*

(c) *Three persons, not members of the legal profession, appointed by the governor.*

The commission shall elect a chairman from among its three lay members.

3. *If at any time the State Bar of Nevada ceases to exist as a public corporation or ceases to include all attorneys admitted to practice before the courts of this state, the legislature shall provide by law, or if it fails to do so the court shall provide by rule, for the appointment of attorneys at law to the positions designated in this section to be occupied by members of the State Bar of Nevada.*

4. *The term of office of each appointive member of the commission, except the first members, is 4 years. Each appointing authority shall appoint one of the members first appointed for a term of 2 years. If a vacancy occurs, the appointing authority shall fill the vacancy for the unexpired term. An appointing authority shall not appoint more than one resident of any county. The governor shall not appoint more than two members of the same political party. No member may be a member of a commission on judicial selection.*

5. *The supreme court shall make appropriate rules for:*

(a) *The confidentiality of all proceedings before the commission, except a decision to censure, retire or remove a justice or judge.*

(b) *The grounds of censure.*

(c) *The conduct of investigations and hearings.*

6. *No justice or judge may by virtue of this section be:*

(a) *Removed except for willful misconduct, willful or persistent failure to perform the duties of his office or habitual intemperance; or*

(b) *Retired except for advanced age which interferes with the proper performance of his judicial duties, or for mental or physical disability which prevents the proper performance of his judicial duties and which is likely to be permanent in nature.*

7. *Any person may bring to the attention of the commission any matter relating to the fitness of a justice or judge. The commission*

shall, after preliminary investigation, dismiss the matter or order a hearing to be held before it. If a hearing is ordered, a statement of the matter shall be served upon the justice or judge against whom the proceeding is brought. The commission in its discretion may suspend a justice or judge from the exercise of his office pending the determination of the proceedings before the commission. Any justice or judge whose removal is sought is liable to indictment and punishment according to law. A justice or judge retired for disability in accordance with this section is entitled thereafter to receive such compensation as the legislature may provide.

8. If a proceeding is brought against a justice of the supreme court, no justice may sit on the commission for that proceeding. If a proceeding is brought against a district judge, no judge from the same judicial district may sit on the commission for that proceeding. If an appeal is taken from an action of the commission to the supreme court, any justice who sat on the commission for that proceeding is disqualified from participating in the consideration or decision of the appeal. When any member of the commission is disqualified by this subsection, the supreme court shall appoint a substitute from among the eligible judges.

9. The commission may:

(a) Designate for each hearing an attorney or attorneys at law to act as counsel to conduct the proceeding;

(b) Summon witnesses to appear and testify under oath and compel the production of books, papers, documents and records;

(c) Grant immunity from prosecution or punishment when the commission deems it necessary and proper in order to compel the giving of testimony under oath and the production of books, papers, documents and records; and

(d) Exercise such further powers as the legislature may from time to time confer upon it.—be approved?

Yes.....

No.....

Statements for the Printed and Punchcard Ballots

The following language should appear on the printed and punchcard ballots:

Question No. 8

Amendment to the Constitution.

Shall—Assembly Joint Resolution No. 16 of the 57th Session (1973), approved by the 58th Session (1975), proposing to amend section 5 of article 6 of the Constitution of the State of Nevada, and also adding a new section to article 6, be approved?

Yes.....

No.....

(Explanation of Question No. 8)

A majority vote of "yes" would amend article 6 by adding a new section to the article. The new section would provide for the establishment of a Commission on Judicial Discipline which would be empowered to

censure, retire, or remove justices or judges. Grounds for censuring justices or judges would be determined by rules by the Supreme Court. Justices and judges could not be removed except for willful misconduct, willful or persistent failure to perform the duties of their offices or habitual intemperance. Justices or judges could not be retired except for advanced age which interferes with the proper performance of their judicial duties, or for mental or physical disabilities which prevent the proper performance of their judicial duties and which are likely to be permanent in nature. The Commission on Judicial Discipline would be composed of two (2) justices or judges appointed by the Supreme Court, two (2) members of the State Bar of Nevada, and three (3) persons, not members of the legal profession, appointed by the Governor. Each member of the commission would serve for a term of four (4) years. The new section also provides for hearing procedures, with the commission, in its discretion, having the authority to suspend a justice or a judge from the exercise of his office pending a determination of the proceedings before the commission. This resolution would also amend section 5 of article 6 of the Constitution by increasing the elective term of office of district judges from four (4) years to six (6) years. A majority vote of "no" would defeat the amendment.

QUESTION NO. 9

Amendment to the Constitution

Assembly Joint Resolution No. 10 of the 57th Session—File No. 86
File No. 27—58th Session

~~Shall—Assembly Joint Resolution proposing to amend section 7 of article 6 of the Constitution of the State of Nevada to permit the Supreme Court of this State to hear oral argument outside of the seat of government.~~

Resolved by the Assembly and the Senate of the State of Nevada, jointly, That section 7 of article 6 of the constitution of the State of Nevada be amended to read as follows:

[Sec:] Sec. 7. Terms of court. The times of holding the Supreme Court and District Courts shall be as fixed by law. The terms of the Supreme Court shall be held at the seat of Government [; and the], *except that the Supreme Court may hear oral argument at other places in the state. The terms of the District Courts shall be held at the County seats of their respective counties; Provided, that in case any county shall be hereafter divided into two or more districts, the Legislature may by law, designate the places of holding Courts in such Districts.—be approved?*

Yes.....

No.....

Statements for the Printed and Punchcard Ballots

The following language should appear on the printed and punchcard ballots:

Question No. 9

Amendment to the Constitution.

~~Shall—Assembly Joint Resolution No. 10 of the 57th Session (1973),~~

JUDICIAL DISCIPLINE COMMISSION

1. Assistant Commission Secretary (.5)

The commission, in conjunction with the Judicial Selection Commission, requests funding for one full-time position. This position is needed as assistant to the court administrator, who has been designated commission secretary to both commissions, in the processing of the commissions' business.

Each commission feels that although secretarial assistance is desperately needed and is fully justified in light of the constitutional duties of the commissions, it is premature to request full-time assistance for each commission. With no long period of experience to go on, the commission, in separate meetings, decided to request part-time assistance and rely on the staff of the court administrator in times of high volume.

The qualifications and experience for this highly confidential position should be no less than those of a confidential secretary to a justice of the supreme court, and the pay range should be commensurate. The person filling this position will be physically located in the office of court administration.

2. The payroll costs are estimated, and reflect approximate costs. Actual costs will be budgeted via the state budget office when the work program is established.

3. The amounts reflect a requested \$40.00 per day stipend for non-judge members for each day spent on commission business there. There are 5 non-judge members. The commission anticipates four meetings. (4 meetings x 5 members x \$40.00 = 800)

4. In-state travel requests cover the four meetings referred to in 3 (above) at an approximate cost of:

The commission consists of three members from Las Vegas, one from Fallon, one from Reno, one from Hawthorne, one from Elko, and the commission secretary/assistant secretary from Carson City.

The travel costs, based on a tentative meeting schedule, are as follows:

Reno	Travel	\$350.00	Subsistence	\$100.00
	Two meetings @ \$450 =	\$900.00		
Las Vegas	Travel	\$475.00	Subsistence	\$100.00
	Two meetings @ \$575 =	\$1,150.00		
Total for meetings:		\$2,050.00		

The balance of the request, \$2,050.00, is reserved for travel expenses in the conduct of investigations.

5. The commission requires money to maintain a "home" within the office of court administration. The commission requests \$2,000.00 in this area, with the majority of that money in the areas of printing, copying, and telephone/postage.

The largest item in the operating area is the sum of \$4,500.00 reserved for independent legal consultant work, investigation of complaints and charges, and/or preparation of materials. The balance (\$3,500.00) in contractual services is reserved for possible witness related expenses, acquiring testimony, reporters, transcript fees, obtaining meeting rooms, publishing reports, and other documents, and other items as they may come before the commission.

The \$4,500 for legal work is based upon 150 hours at the prevailing rate of \$30 per hour as authorized in the public defender program.

Other contractual services (1,800) provides for lease and machinery which will be shared with the Judicial Selection Commission. The repetitive typing requirements as well as the volume of business in the last couple of months indicate that a Mag Card II or equivalent machine is needed.

6. The commission requests money for 1/2 of a work module for the assistant commission secretary and 1/2 of a modern filing system. The need for a secure controlled access filing system is of major importance. In order to provide such a system in light of the restricted floor space in the supreme court, a Lektriever 600 or equivalent system is judged to be required.

GENERAL COMMENTS ON THE COMMISSION'S BUDGET REQUESTS

1. The commissions' will undoubtedly be reverting large portions of the legal contractual money since no known issues requiring these services are present.
2. If the organizational matters of the commission on Judicial Discipline are settled quickly, there may be some reversion there from travel.
3. The initial costs to be experienced this spring to get the "office" matters of the commissions set up are higher than the requested amounts in ensuing years. This relates to stationery, basic supplies, equipment and desk equipment (staples, etc.).
4. The court administrator will recruit for the assistant commission secretary and the two commission chairmen will make the final decision.

JUDICIAL DISCIPLINE COMMISSION

	76-77	77-78	78-79
1. ASSISTANT COMMISSION SECRETARY (.5)	\$3,100	\$7,345	\$7,860
2. PAYROLL COSTS	500	1,065	1,140
3. COMMISSIONERS	800	800	800
4. IN-STATE TRAVEL	4,100	4,500	5,000
5. OPERATING	11,000	12,500	13,000
6. EQUIPMENT	2,300	Ø	Ø
	<hr/>	<hr/>	<hr/>
	\$21,800*	\$26,210**	\$27,800**

* AB 305

** IN BILL DRAFTING

600

TESTIMONY PRESENTED TO WAYS AND MEANS COMMITTEE, NEVADA STATE
LEGISLATURE - 59th SESSION

FEBRUARY 28, 1977

My name is John W. James, and I am President of Mountain West Weather Service, Incline Village, Nevada. We are involved in meteorological consulting, specializing in weather modification activities. In fact, we direct three on-going, long-term projects in California, almost half the total of such projects in California. We have been involved with one of these projects, in the Northern Sierra Nevada, for the past eight years.

In addition, I have been a Nevada resident and taxpayer for the past several years.

I offer this testimony today both as a Nevada resident and a professional meteorologist.

Nevadans are very concerned about the drought conditions of the past two winters. These conditions, that effected only three or four western states last winter, now plague the entire Western Region. There are several possible ways to lessen the burden of such a dry period, and weather modification is one of these, especially if long-term projects are planned for. Short-term solutions are not as effective in drought relief as projects that span several years and build up surface and ground water supplies to help combat future dry periods. With regard to that I would like to quote from an article written in a recent issue of the Sierra Cooperative Pilot Project Newsletter, by Dr. Archie M. Kahan, Chief of the Division of Atmospheric Water Resources Management, U.S. Bureau of Reclamation, Denver, Colorado. Dr. Kahan says, "It is possible for short-term, hurriedly-planned, emergency cloud seeding operations to be carried out, provided extensive assessments for environmental impacts are waived; but odds are against such efforts meeting the expectations of their sponsors. Seedable opportunities do occur during periods of drought, but they are apt to be few in number. Benefits derived from seeding the few available opportunities will be impossible to evaluate since there is no presently available and reliable means for assessing seeding success on a storm-by-storm basis. If the intent of the cloud seeding is to increase inflow into storage reservoirs, the soil moisture deficit created by the previous dearth of rainfall must be overcome before any reservoir surplus will be noted. This cautious view of cloud seeding for short-term drought relief should not be read as advice to forget about cloud seeding. There is a role for weather modification in relieving water shortages where and when YES answers can be given to the following four questions:

- 1) Do the meteorology, hydrology, ecology, and sociology of the basin combine to offer an acceptable risk level?
- 2) Are the knowledge and resources available to permit recognizing seeding opportunities when they occur?
- 3) Are adequate means of treating these opportunities at hand?
- 4) Is there a satisfactory basis for judging what has been accomplished by the cloud seeding treatment?"

Several organizations, some of which are represented here today, have the capability to answer YES to all four questions, and operate well-planned, valid, weather modification projects.

Even though Dr. Kahan, one of the most respected individuals in weather modification, holds a cautious view of short-term cloud seeding projects, such projects might be of some aid during a drought year if enough significant storm events are extant. In his testimony to this Committee on February 23, 1977, Warren Kocmond of the Desert Research Institute, noted that the cloud seeding program proposed by them would be directed solely at seeding moderate or heavy Sierra storms. He also said that in a normal year Western Nevada experiences 8 storms during March and April. This has not been a normal year, meteorologically speaking! There is no reason to believe that it will become one during the last two months of our winter precipitation season (March & April). In fact, the U.S. Weather Bureau 30-Day Outlook just released for March indicates that below normal precipitation will be the rule for all of Nevada and California except that area generally north of Lake Tahoe. Therefore, the "moderate or heavy Sierra storms" that we can expect during the remainder of our winter season might give only 1, 2 or hopefully 3 or 4 seeding opportunities, if the Desert Research Institute formula is followed. In addition, it should be noted that all storm events do not respond to cloud seeding, as very cold air masses already contain sufficient natural ice nuclei, and any added artificial nuclei may tend to decrease natural precipitation. Such evidence has been found in Colorado, California, and other locations in the West. At times, such cold air masses do effect the Sierra Nevada during March and April, further reducing our seeding opportunities.

Weather Modification projects can be broken down into two basic types - operational and research, with some overlap from each. An operational project has one goal, to alleviate, or help avoid a problem (for example, add additional snowpack to a watershed to aid in water availability), conducting only enough research along the way to improve the operational program. Traditionally then, money spent for such a project goes mostly for operations and little for research. A research program of course, spends a majority of available funds on research, into, for example, the cloud physics of the air masses prevalent over the seeding target area. Operational benefits are derived here also, but at a lower level of aid, because of the great expense of such research, usually involving a separate, specially equipped aircraft, cloud physicists, and other expensive equipment.

Much research has already been conducted concerning the cloud physics of wintertime air masses in the West. Just to name a few, programs in the San Juan Mountains and Climax areas of Colorado, by the Univ. of Washington in the Cascades, by Atmospheric Water Resources Research and the U.S. Bureau of Reclamation in the Central Sierra Nevada, and of course, by the Desert Research Institute for the Pyramid Lake Pilot Project, over the Tahoe-Truckee Watersheds from 1970-75, all conducted such research.

A great deal has already been learned then. Of course, as in any science, more can be learned and improvements made. However, meteorologists involved in weather modification activities believe that they can operate efficiently with present knowledge, making whatever improvements necessary as more information becomes available.

Because the primary concern in Nevada is more water for selected watersheds for the least expense, any cloud seeding project in the State should utilize available meteorological and cloud physics data, with some research input along the way, in order to reach operational goals. All eight on-going, long-term projects in California operate on this basis, and for a great benefit I might add, and at a large savings, to their customers. Some of these projects have been going for over 20 years. I don't believe that the State of Nevada can afford to allocate a little over one million dollars, such as the Desert Research Institute proposes, for 2½ winter seasons of cloud seeding in only 3 watersheds, one of which is very small, when a good deal of the money will go for research. Many other projects all over the West are operating successfully without such additional funds. Why should we pay extra for such an item in Nevada?

Some money for a cloud seeding project in Nevada has already been approved by the Nevada State Legislature. Two years ago funds were appropriated to study the potential for supplying additional water to the Walker Drainage by cloud seeding. This cost must be added to the one million plus dollars now being asked for, as the Walker River Drainage is one of the three to be effected.

For this amount of money the Desert Research Institute proposes to offer only an airborne seeding program for the entire 2½ year program. Dr. Kocmond stated in his February 23rd testimony that although ground generators were used extensively in the Walker and Tahoe programs a few years ago, DRI feels that in the short time available targeting could be greatly improved with the use of aircraft. This of course is true for the remainder of the 1976-77 Winter Season. There isn't time to set up a ground based program! However, there is ample time to organize and install a ground based project for the 1977-78 and 1978-79 Winter Seasons. All Summer and a good deal of Fall 1977 is ample time!

Dr. Kocmond also states that "there is some belief that ground based seeding may not be nearly as effective as the material may not be getting to the clouds". On the contrary, all the long-term California projects mentioned earlier utilize ground generators with great success, shown by the projects analyses and longevity. In addition, large-scale, long-term projects in Utah, Colorado, and other western states also use ground generators. The new Sierra Cooperative Pilot Project in the American River Watershed adjacent to the Tahoe Basin, and funded by the U.S. Bureau of Reclamation, as was the Desert Research Institute, Pyramid Lake Pilot Project, will use both ground and airborne seeding, with an emphasis on the former. The extensive Central Sierra Project of a few short years ago, also funded by the U.S. Bureau of Reclamation in part, relied on ground based generators, also with good success. In fact, all three long-term projects that have been seeding for years along the Sierra Crest from Lake Almanor to near Yosemite use only ground generators. These generators are installed at elevations which are in-cloud, or near to that, during most of the significant storm events that dominate the Sierra Winter.

Research studies have found (in Colorado for example) that some clouds respond better to airborne seeding, but in all cases, a combination of both ground and airborne seeding is the most efficient and brings the greatest returns. However, ground based projects, with no aircraft involved, are efficient, have been operating for many years in the

Sierra Nevada, and do so at a much lower cost, due to the great expense of aircraft seeding and sampling.

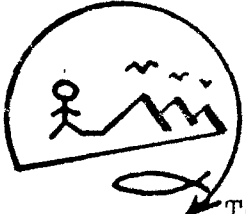
Another question looms regarding cloud seeding in the proposed areas - Who has the responsibility for such a project with regard to liability? Either the State of Nevada or weather modifier, or both, are liable for this project. In order to benefit the Tahoe and Walker Watersheds, much seeding, either ground or airborne, must be done in California, preferably near the Sierra Crest, the most productive cloud area. Such seeding could infringe on long-term seeding projects in the American, Mokelumne, Stanislaus, and Tuolumne Watersheds, and of course, the new U.S. Bureau of Reclamation American River Project. Also, seeding from these older Western Slope projects upwind, might effect cloud structure and project analysis of the proposed Tahoe-Walker Program. Close planning and coordination with all these projects is imperative.

This is an environmentally sensitive area. The major portion of the northern two-thirds of Nevada's population is here, as well as a large visitor influx throughout the year. Major highway arteries cross the region. Winter sports activity is intense, and in fact focused on the Tahoe Area, an environmental question mark in it's own right. Water ownership controversies are already a problem. Development is taking place at a rapid rate in many areas. A thorough environmental assessment and surveillance must precede and accompany any serious cloud seeding program.

Many reputable firms can conduct a well planned and managed, and successful operational cloud seeding program in the proposed areas, including ground and airborne instrumentation that would be needed, plus a detailed analysis of the effectiveness of the program. Therefore, I urge this Committee to consider opening up such a project to competitive bid. This would include both the cloud seeding project and the necessary environmental assessment.

If the State feels that an emergency 2 month program for the remainder of this winter would be of enough benefit to warrant the cost, then bids could be opened for that this week, and seeding could begin, possibly by the end of next week. This has been done just as quickly in California in recent weeks. This of course, would be an airborne program. Bids for the seeding program for the 1977-78 and 1978-79 Winter Seasons, and the environmental studies, could be opened this month or next. This would give more time for well thought out proposals, and time to complete the environmental work before clouds were actually seeded. The contractor would also have all summer to set up the project, coordinate with adjacent on-going programs, and meet with, and discuss the ramifications of the project with concerned public, private, and citizen groups.

Nevada can obtain additional water thru cloud seeding. This should be done in an orderly, well managed, meteorologically sound, environmentally safe manner, and at a reasonable cost, for the benefit of all Nevadans.



JAMES V. A. CONKEY & Associates

Environmental Planning
and
Ecological Assessment

Testimony Given Before the Nevada Assembly Ways and Means Committee on 28 Feb. 1977 by James V. A. Conkey

"The Need for Preliminary or Concurrent Impact Studies in Relation to Weather Modification Projects"

Gentlemen:

I am Jim Conkey and represent James V. A. Conkey and Associates, Environmental Planning and Ecological Assessment. I am a tax payer having lived in Nevada for 15 years.

For the past two years our firm has acted as ecological consultants to the San Bernardino Valley Municipal Water District (San Bernardino, Calif.). During this time we have been involved with one of the most sophisticated and carefully monitored projects in the history of weather modification. The study and target area included a section of the San Bernardino National Forest and the San Gorgonio Wilderness Area.

I am appearing before the Ways and Means Committee this morning to encourage its members to demand an Environmental Impact Statement prior to any weather modification project, or if a demonstrated emergency exists, at least a concurrent EIR or Environmental Surveillance Plan during the course of any weather modification project, sponsored and paid for with Nevada State Monies and involving U.S. National Forests and Designated Wilderness areas plus California lands and resources. These forests, areas and lands will certainly be affected by AB 279.

We all know that an emergency situation exists in the west, in respect to our two year drought, we will be seriously compounding our problems through later potential legal suits which could be precipitated by a Nevada project running roughshod over the very strict California Environmental Quality Act of 1970 (Rev. 1976) and the less demanding but still difficult guidelines of the National Environmental Policy Act (NEPA), Environmental Impact Statements (EIS).

I would remind the committee that the bill (AB 279) providing financial support to a weather modification project of this scope would require the seeding of western slopes of the Sierra, that is California, and parts of the Tahoe, El Dorado, Stanislaus and Toiyabe National Forests including the Desolation Valley and Mokelumne Wilderness areas.

Statements and questions that must be addressed would include:

-What are the effects of reduced precipitation variability and increased average yearly precipitation on resources within the target areas? What are the effects downrange of the target area.

-What effects will be imposed on the environment by the increased yield of water? What would be the effects of increased runoff on stream channel erosion and sediment production? What would be the effects of increased runoff on aquatic biota? The Spring Mountains have a history of flooding lower areas.

-What would be the environmental effects of increasing the magnitude of peak flows attributable to "warm storms" falling on seeded snowpack? Would such runoff events cause an increase in flooding and impacts to life and property?

There should be an assessment of snow avalanche hazards within the target area. Also, predictions should be made as to what the effects of increased snowpack will be on snow avalanche conditions. An increase in the frequency of avalanches could occur as a result of increasing winter snowpack. What are the social and biological effects of more frequent occurrences of snow avalanches?

-Impacts on recreation caused by increased snowpack in more detail. Specifically, will there be: (1) a delayed opening of trails; (2) increased avalanche potential for winter travelers; and (3) increased difficulty for unprepared users to get out in deeper snow?

-Will the project affect rare or endangered species of animal or plant or the habitat of the species? This would be especially important in considering the effects of AgI on such things as the Desert Bighorn, (AgI represents Silver Iodide).

-Will the project interfere substantially with the movement of any resident or migratory fish or wildlife species.

The principal laws and regulations which are most relevant to the issue of weather modification are:

The Organic Administration Act of June 4, 1897 (30 Stat. 34) as amended (16 U.S.C. 473,474-482,551).

Part 251 of Title 36 Code of Federal Regulations.

The Multiple Use-Sustained Yield Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528-531).

The Wilderness Act of September 3, 1964 (78 Stat. 890; 16 U.S.C. 1131-36).

The National Environmental Policy Act of 1969 (PL 91-190); (83 Stat. 852; 42 U.S.C. 4321 et seq.).

The Federal Water Pollution Control Act of 1972 (PL 92-500); (86 Stat. 816).

The Endangered Species Act of 1973 (PL 93-205); (87 Stat. 884).

Finally, regarding wilderness areas, the use of lands within the National Wilderness Preservation System as target areas for weather modification activities will not be authorized by the Forest Service unless the proponent can:

a. Demonstrate through valid scientific analysis that his activities will not produce permanent, substantial changes in natural conditions attributable to those activities and,

b. Assure that the proposal does not include any feature that might reasonably be expected to produce conditions incompatible in appearance with the wilderness environment or reduce its value for recreation, scenic, scientific, educational, conservation or historical use.

Gentlemen, I again strongly advise the need for including an Impact Statement in the proposed bill (AB 279) and hope that state monies within the bill would be used to defer the expense.

Thank you.

PROGRAM COST REVISIONS - AB 279

ORIGINAL COSTS FOR 1977:

1.	Tahoe & Walker Lake	145,011
2.	Spring Mountains	<u>81,635</u>
		\$ 226,646

REDUCTIONS

1.	Tahoe & Walker Lake		
	a.	1 Field Technician	
		1 Research Prof.	5,461
		1 Research Assis. + fringe+ 31%	
	b.	Shop 100 hrs @ \$15/hr	1,500
	c.	Graphics 10 hrs @ \$15/hr	<u>150</u>
			7,111
2.	Spring Mountain		
	a.	80 hrs B-26 x \$545/hr	43,600
	b.	All related salaries	
		fringe+ 31%	20,031
	c.	Communications	<u>600</u>
			64,231

Total Reductions	7,111
	<u>64,231</u>
	\$ 71,342

Additions

Cloud Seeding through May and June in three locations, i.e., Tahoe, Walker, Spring Mountains \$11,700

Net Reduction	71,342 - 11,700 = \$59,642
Program Total +	226,646
	<u>-59,642</u>
	\$ 167,004