

MEMBERS PRESENT

Chairman Westall  
Vice Chairman Mello  
Mr. Barengo  
Mr. Harmon  
Mr. Vergiels  
Mr. Glover  
Mr. Rusk  
Mr. Tanner  
Mr. Weise

GUESTS PRESENT

See Guest List attached.

Chairman Westall called the meeting to order at 5:10 p.m. and stated that a quorum was present. The Chairman called for testimony on A.J.R. 23/59.

A.J.R. 23/59

Dale Goodman, former assemblyman from Reno, testified that he had introduced this Joint Resolution at the last session of the Legislature. He did not remember there being any testimony against the resolution at the last session and feels that it is a good resolution having to do with the postal allowance, which would allow the legislators to have better communication with their constituents.

A.J.R. 8

Assemblyman Virgil Getto explained that his bill endorses the open meeting law concept, but does make room for exceptions. He feels that there are rare instances where it could be necessary to have closed meetings. This would give the legislative bodies this right.

Mr. Glover asked if this would take a simple majority. Mr. Getto said that it would be governed by the adoption of a joint rule setting up the guidelines, or it could be amended into the bill. He feels that sometimes closed meetings are a benefit to the public in certain instances, but there is such a kick on now to have everything open that it is hard to convince the public of that. Sometimes, such as in the case of the filing of a law suit, an open meeting could jeopardize the case by revealing your side. Mr. Mello stated that the Interim Finance does not have closed meetings and the commission only has closed meetings when it is a personnel matter. There have only been three occasions when it has been necessary since he has been here; once in Assembly Judiciary and twice in the Senate. Mrs. Westall said that this could indicate that there are a few occasions when it might be necessary.

Robert Brown, Publisher of the Valley Times, N. Las Vegas, and President of the Nevada State Press Association, spoke on behalf

of the Press Association in opposition to A.J.R. 8. This bill ties into A.J.R. 1, which the Association supports. They are opposed to A.J.R. 8, as it provides a loophole which they do not feel is necessary. If it came to a situation so vital that it had to have a joint rule to close off discussions to the press and the public, that is the kind of thing the public and press is interested in and should know and has a right to know, according to Mr. Brown. Personnel matters could be an exception, and this could be stipulated to, such as is the case with the current open meeting law. The legislative body which created the open meeting law is not subject to it.

Esther Nicholson, representing the League of Women Voters, read a prepared statement opposing A.J.R. 8 and supporting A.J.R. 1, a copy of which is attached hereto and marked Exhibit A. Mr. Barengo asked whether Mrs. Nicholson thought there was a realistic chance that this would pass the Senate even though she had quoted some senators comments. It was the Senate that destroyed all their tapes of the last session of the legislature and not the Assembly. Mrs. Nicholson replied that she, of course, did not have much influence over that, but was presenting the point of view of the League.

Frank Delaplane, Managing Editor of Reno Newspapers and President of Sigma Delta Chi, read a prepared statement in favor of A.J.R. 1 and opposed to A.J.R. 8 on behalf of the Reno Evening Gazette, Nevada State Journal, Society of Professional Journalists and Sigma Delta Chi, a copy of which is attached hereto and marked Exhibit B. Mr. Mello asked if we should amend this and put the court system in it. Mr. Delaplane answered that he would like to see the courts included.

Arthur Cruickshank, representing Common Cause, stated that Common Cause is in favor of A.J.R. 1 and opposed to A.J.R. 8 because of the ambiguous word "necessary" included in A.J.R. 8. Sometimes the superfluous becomes necessary, in his opinion. Necessary things should be itemized and listed definitely in the bill. A.J.R. 1 would bring both houses into compliance with the law that everyone else has to live up to. Mr. Vergiels asked if he would be in favor of including the court system in this. Mr. Cruickshank replied that this should be done only if spelled out in the law. Mr. Brown stated that, speaking in behalf of the Press Association, he would be in favor of including the court system. He questioned whether or not the legislature could set the rules for the court. The court would have to uphold the Constitution. Mr. Barengo stated that it would not be the Legislature telling the court how to keep their meetings open, it would be the people saying that each branch of government will have open meetings and then the courts should abide by that. There has been a bill introduced in the Assembly exempting the courts from the open meeting requirement. Mr. Brown felt that there should be certain protections of the rights of individuals in the

court system, and Chairman Westall stated that this would appear that he was in favor of some loopholes.

Joe Jackson, member and former secretary-manager of the Nevada State Press Association, read a prepared statement favoring A.J.R. 1 and in opposition to A.J.R. 8, a copy of which is attached hereto and marked Exhibit C. He felt that the Legislature should get this bill through this session and work on the courts next session.

G. P. Etcheverry, Executive Director of the Nevada League of Cities, stated that he had started questioning the open meeting law after its passage in 1977 because they never got an attorney general's opinion on what it was until September of 1977, during the League of Cities Convention in Ely. In the meantime, there was quite a bit of trouble with losing police officers and other problems because they couldn't abide by the law as written with no interpretation. The League feels that sometimes a meeting has to be closed, particularly with the relationships with city councils and county commissioners. The members of the committee had been provided with copies of the resolutions of the League. Mr. Etcheverry feels that the open meeting law should be amended so that it can be worked with by the cities. In some of the outlying areas it is hard to get a quorum together each time.

A.J.R. 1

Steve Coulter, Assemblyman, appeared to testify in behalf of A.J.R. 1. When the original Constitution was drafted in 1863, there was no provision for any closed meetings. The section which refers to the Senate meeting in executive session came in a later draft when one member of the legislature thought it might be a good idea to have that in case the legislature should ever sit in confirmation hearings on appointments by the governor. The Counsel Bureau cannot find one instance in all Nevada history when that one particular section has been used. In the 1975 session Mr. Coulter introduced a statute change to apply to mandate open meetings of the legislature. It passed the Assembly and went to the Senate, and one of the more prominent senators went to Legislative Counsel and requested a legal opinion as to whether or not that was constitutional and they came up with a decision which agreed with his opinion that it was unconstitutional to apply a statute change to the Nevada Legislature dealing with open meetings because of that one section that says "except the Senate when meeting in executive session". In the 1977 session the Assembly unanimously passed out a constitutional amendment that did die in the Senate. The climate may be somewhat changed this time, in his opinion, due to the fact that the legislature is involved in a double standard in that the open meeting law does not apply to the legislature, by the attorney general's opinion.

Mrs. Westall stated that she was a co-sponsor of the open meeting law that we now have, and the only thing that bothers her about including the legislature is the fact that she hates to tell the Senate what to do, but she is in favor of open meetings.

#### A.B. 161

Mr. Mello explained that this bill raises the travel based on the 17 cents a mile from \$1,700 to \$2,550, mainly for those traveling from the south. It also raises the telephone allowance from \$500 to \$1,000. It raises the allowances for the chairmen from \$100 to \$300 for postage and telephone. It now includes the leadership. Mr. Vergiels commented that when you are here for more than one session you become more well known and more people call and communicate with you, which raises the expenses quite a bit. Mr. Tanner was concerned about the public reaction to legislators raising their allowances at the present time. Mr. Vergiels stated that the allowances should reflect the actual expenses. The allowances should not go to a point where it becomes a salary situation. Mr. Weise felt that, psychologically, it would be poor policy to raise the allowances at this time, even though it is a hardship on southern legislators more than on those from the north. Legislators are able to phone at a reduced rate. Mr. Mello feels that it is worth the extra out of pocket, if necessary, to communicate with constituents. Chairman Westall felt that if legislators are to do the job they are sent here to do they should be reimbursed.

Chairman Westall announced that this would conclude the hearings scheduled for this date.

#### COMMITTEE ACTION

A.J.R. 23/59: Mr. Glover moved Do Pass, Mr. Harmon seconded. Motion carried unanimously.

A.J.R. 1: Mr. Harmon moved Do Pass, Mr. Rusk seconded. Motion carried unanimously.

A.J.R. 8: Mr. Glover moved that A.J.R. 8 be amended by the deletion of lines 10 and 11, and include in this bill that the court system come under the open meeting law. Mr. Rusk seconded. The Motion carried with Mr. Tanner voting No.

Mr. Vergiels suggested that the committee postpone voting on A.J.R. 8 until the members see the amendment.

The first portion of the bill will conform to A.J.R. 1, and the next pertaining to the judiciary will then be inserted as Sub-section 2.

A.B. 131: Mr. Barengo moved to Indefinitely Postpone A.B. 131, Mr. Weise seconded. The motion carried unanimously.

A.B. 161: Mr. Barengo moved Do Pass, Mr. Harmon seconded. Motion carried with Mr. Glover, Mr. Weise and Mr. Tanner voting No.

Chairman Westall stated that there would be a discussion on the lobbyists.

Speaker Paul May said that the lobby situation needs to be clarified regarding the strict enforcement of Rule 94, which would preclude lobbyists from the floor in or out of session. Mr. Weiss stated that strict enforcement, as he sees it, would also apply to other legislators lobbying their own bills. Following a short discussion, it was found that the committee does not now unanimously wish to have the rule strictly enforced. It was decided that lobbyists be excluded from the floor from the time that the buzzer rings before the session in the morning to the time that the Assembly adjourns for the day. Mr. May agreed that this would be the best way, with exclusion from the first gavel of the day to the last of the day, which would include recesses and the noon hour. Mr. Weise suggested that it be left to the leadership to work out something with the Sergeant at Arms and the pages so lobbyists can, somehow, be in contact with individuals with messages, if necessary. Mr. May will have a set of rules drafted to give to the lobbyists. Also, it would be requested that the phone booths outside the Assembly door be reserved for legislators. Mr. May will give a copy of the rules to the members of the committee for consideration when they are drafted.

Art Palmer was present to explain the tape situation to the committee. He introduced Andy Grose of the Research Division to present recommendations for guidelines on the best way to handle the tapes of committee hearings.

Andy Grose explained that up until a year ago there was no written policy concerning the minutes or tapes. Both houses adopted rules that said the minutes would be kept with the Counsel Bureau upon adjournment and they should be made permanent. That has been done for a number of years. There has never been a written policy on the tapes of the standing committees of the legislature until a year ago. Mr. Mello sent a letter to Sen. Gibson and Mr. May to suggest that they consider some sort of uniform policy for each house so that the Counsel Bureau, upon adjournment, would know how the tapes should be handled. Now the tapes are retained for two bienium in the Counsel Bureau. The most recent session is catalogued and indexed and readily accessible. The preceding sessions are boxed and stored. Because of space and because of how often people care to get into them, they suggested to the Legislative Commission that four years is plenty long to keep the tapes. At the conclusion of that period they would be reused or thrown out if too old. There would be two sessions of tapes

available. As to availability, pursuant to direction of the Commission in October of 1977, a form was sent to all standing committee chairmen from 1975 and 1977 asking for their opinion on the availability of the tapes. These opinions ranged from letting anyone use the tapes to nobody without the permission of the chairman. The advice of the Legislative Counsel was that the minutes are the open records of the open meetings but that the tapes are working tools that were used to prepare the minutes and they are not inherently open records.

Mr. Grose feels that it would be preferable if there would be one policy governing all of the tapes of at least one house, and more preferable if there were one policy governing all of the tapes of the legislature. The Senate Legislative Functions Committee last week thought it would be worth considering a joint rule on this. Mr. Palmer said that there is no statutory provision requiring that the committee tape its proceedings, only a rule that minutes be kept, likewise in the chambers.

Mr. Barengo asked if the Senate had decided whether or not they were going to keep their tapes or destroy them. Mr. Grose said they had not decided anything other than that they ought to take up the question and asked for proposed rule language, which has been prepared by him. A copy of the proposed rule is attached hereto and marked Exhibit D, which could be considered at a future meeting. It was suggested that the committee wait until they see what the Senate decides to do. Mr. Plamer felt that sometimes the taping is a protection to the committee against allegations which could be made against it. Also, it was brought out that things can be said in a meeting that could be misunderstood on the tapes, such as things that are said jokingly.

Chairman Westall announced that bids should be sent out on photography. There were no objections.

There was a request that the committee introduce a bill to delete the part of the oath taken when filing for office which says that the candidate will abide by the party platform. There was controversy as to whether this was actually the case, or was the case in only some districts or counties. It will be investigated further.

Mr. Glover suggested, with regard to the Legislative Manuals, that he would like to see the legislature go back to having a complete set with its own binder for each legislative year. Even though the pages can be changed, many times you would like to go back and see what the rules were in preceding years and keep it as a history. There was no opposition. Chairman Westall will discuss the matter with Mr. Palmer.

The meeting was adjourned at 6:30 p.m.

Respectfully submitted,

*Ruth Olguin*  
Ruth Olguin  
Secretary

GUEST LIST

LEGISLATIVE FUNCTIONS

January 29, 1979

NAME

REPRESENTING

WISH TO SPEAK

(Please print)

Yes

No

✓ Esther Nicholson	League of Women Voters	✓	
✓ Arthur H Grueckshank	Common Cause	✓	
✓ Gote Kelley	New St. Press Assn		✓
✓ Pats Brown	" " "	✓	
✓ Frank Delaplane	Reno Evening Gazette/ Nevada State Journal / Sierra Delta chi	✓	
✓ Dale Goodman	self (ASR 23)	✓	
J Miller	Kennecott		✓
Gail Westrup	KLAS-TV, Las Vegas		✓
✓ G P Etcheverry <i>approved!</i>	NEU LEAGUE OF WOMEN	✓	
Arthur J. Palmer	Legislative Council Bureau		
✓ Joe Jackson	New State Press Assn	✓	
J. Barrows	LV SUN		
✓ P. Rogers	UN		
LESTER WISBROD	BH & B		
✓ Beyond, Janet E	EDUCATION		✓
RAY RYAN	Education		✓
TED SANDERS	EDUCATION		✓
Sue Volk	Reno Newspaper		✓
Barbara Bailey	NTLA		✓
✓ STEVE COUITER	Assembly (AJRI)	✓	
Seth			
✓ Bob Brown <i>support (1) - opiate.</i>	press assoc.		

EXHIBIT A  
Jan. 29, 1979

## ASSEMBLY

Madam Chairman and Committee Members:

I am Esther Nicholson and I am speaking to you as a representative of the League of Women Voters of Nevada. The two resolutions you have before you today, AJ R 1 and AJ R 8 clearly fall within an area in which the League has long held and clearly defined positions. We believe that democratic government depends upon the informal and active participation of citizens and requires that governmental bodies protect the citizen's right to know by giving adequate notice of proposed actions, holding all meetings open and making public records accessible. Good government depends upon open decisions, openly arrived at. We have supported open meeting legislation over the years and were delighted at the excellent open meeting legislation enacted last session. However, we were disturbed that the legislature found it necessary to exempt itself from the law which it was imposing on other governmental bodies in the state.

We realize that both houses now have rules which provide for open committee meetings. Over the years, the Assembly has been more ready than the Senate to open all meetings without exception, to public scrutiny. However, since rules are subject to adoption by each successive legislature, it seems clear that only a Constitutional Amendment can guarantee this right. This became very clear in the '58 session when legal research indicated that only by amendment could two provisions of the present constitution be superceded: (1) the provision that each house of the legislature shall adopt its own rules of procedure and (2) that the Senate could sit in executive sessions.

The opportunity to take the first step in this important amendment process is before you today. AJR1 and AJR8 both address themselves to this matter and if one were to read only the summaries given on the printed copies of the two Resolutions, they would seem to be identical. However, there are important differences. The principal objection which the League has to AJR8 is contained in lines 10 and 11. By providing that the houses may by joint rule provide "necessary exemptions" seems to us to provide yet another loop hole which, while it may not be quite as wide open as the situation at present, still practically nullifies the purpose of the amendment. We would refer you to a statement made by Senator Wilson in a Senate Legislative Functions Committee meeting in 1975. He said: "I have long felt that if there is indeed ever a justification for closing a meeting that it should be precisely and specifically and rather narrowly defined. It should not be the subject of discretion."

We feel those last two lines of AJR8 still leaves the closure of committee meetings "a matter of discretion" and thus we oppose it. As to the choice of the word "shall" or "must" in line 4 of the two amendments and the choice of "are open" or "must be open" in lines 9 of each, we would urge you to adopt the wording that seems to you strongest and most binding.

In closing, we commend to you a statement made by Senator Hilbrecht at that same committee meeting referred to above in which he said: "My view of the subject is that the Senate and House are composed of the representatives of the people, and therefore they should possess no authority to transact any business of which their constituents shall not have knowledge."



# Nevada State Journal

## RENO EVENING GAZETTE

Pulitzer Prize Winning Gannett Newspapers

January 29, 1979

To: Assembly Legislative Functions Committee

Re: Statement of Reno Evening Gazette, Nevada State Journal and Society of Professional Journalists, Sigma Delta Chi relative to Assembly Joint Resolutions 1 and 8.

Because positions coincide on the above resolutions, the committee can consider this statement to be the position of the Gazette and Journal and Sigma Delta Chi, which represents some 100 working journalists and media related persons in the print and broadcast media in Northern Nevada.

Assembly Joint Resolution 1 has our strong endorsement. It, in effect, would bring the Legislature and its committees under the provisions of Nevada's excellent Open Meeting Law.

We reject Assembly Resolution 8 as a step in the wrong direction.

It certainly comes as no surprise to this committee that all press organizations within this state, speaking on behalf of the public, support the concept that meetings of all governing bodies, including the Legislature, should be open to the public.

This openness provides for a free flow of information that is essential in a democratic society if it is to survive. The public must have this information and openness if it is to make intelligent decisions. It is our position that there is no in-between measure.

And if there is one governing body that should be completely open to the public, it is the Nevada Legislature. It sets the example for all other governing bodies. Also, its actions affect the lives of every citizen in this state.

At present, there is an inconsistency in this state regarding open meetings. That inconsistency exists in the Legislature. Nevada has one of the strongest open meeting laws in the nation as a result of our Legislature. The general feeling of the public and most governing bodies in this state is that the law is a good one and has worked well. Yet the Nevada Legislature chooses to exclude itself from this law.

The public can only ask why? Legislators should ask themselves the same question and also ask -- "How does it look to every other governing body in the state and to the public itself?" The Nevada League of Cities is already on record asking the Legislature to extend the open meeting law to itself.

In effect, we have the father of governing bodies (the Legislature) telling its sons (the other governing bodies) to do something it doesn't have to do itself.

Does this mean we are suggesting the Legislature constantly violates the open meeting concept? No. Such violations are rare. But, there should be none at all. This maintains a free flow of information and public trust.

It is for the above reasons the Gazette and Journal and Sigma Delta Chi support Assembly Joint Resolution 1.

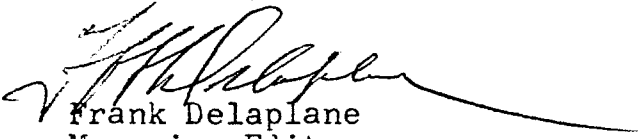
We cannot support Assembly Joint Resolution 8. We view it as a step backward. Right now, under the Constitution, the Assembly must conduct all meetings in the open, with the Senate free to call closed "executive" sessions.

AJR8 contains the loophole -- "...but the houses may, by joint rule, provide necessary exceptions to this requirement." If this resolution with that language were added to the Constitution it would, in effect, give to the Assembly the same freedom to call closed

meetings that is objectionable in the Senate. It would weaken the open meeting concept in the Legislature instead of strengthening it.

We ask this committee to report Assembly Joint Resolution 1 favorably to the floor and, frankly, forget the Assembly Joint Resolution 8 ever existed.

Sincerely,



Frank Delaplane  
Managing Editor  
Reno Evening Gazette/Nevada State Journal

President of Sigma Delta Chi



# Nevada State Press Association

January 29, 1979

Joe Jackson,  
2375 South Arlington Ave.  
Reno, Nevada 89509

Statement of the Nevada State Press Association relative to Assembly Joint Resolution 1 and Assembly Joint Resolution 8.

Assembly Joint Resolution 1 is strongly endorsed by the Nevada State Press Association. It does exactly what the Association advocates, which is bringing the Legislature and its committees within the scope of the Nevada Open Meeting law. And we're delighted that, if enacted, AJR 1 would settle, once and for all, the question of whether the provisions apply to legislative committees.

We contend that the Legislature should, indeed, be covered by the open meeting law, perhaps more so than any other governing body within the state. Not only does the Legislature operate on public monies and determines how that money is collected, and from whom, and how the money is spent; every bit of legislation this body enacts affects the lives of every Nevada citizen, and most of its visitors, in one way or another. Only by being permitted to attend committee meetings can the public determine how a committee reached its decision to either accept or reject a piece of legislation. Certainly the public has an inherent right to attend committee sessions. The claim is frequently made that committees of the United States Congress operate by closing their doors. Such closed meetings aren't really all that frequent in Congress, and besides, two wrongs do not make a right. Let's keep Nevada government open!

The Nevada State Press Association is opposed to AJR 8 because a section provides that meetings of any committee must be kept open, but the houses may by joint rule provide necessary exceptions: a convenient escape hatch which would make the provisions of the Open Meeting Law without value as far as the Legislature is concerned. Rules could be so devised as to make it possible to close committee room doors at any time. Such a provision, which could be construed in the same manner as providing a license to steal, should never become a part of our state's Constitution.

As a bit of background, that portion of Nevada's Constitution was copied from California's Constitution, it is reported. The California



# Nevada State Press Association

NSPA on AJR 1 & AJR 8 Page 2

Joe Jackson, . . .  
2375 South Arlington Ave.  
Reno, Nevada 89509

document was so worded because consent of the Senate to gubernatorial appointments was necessary. That system was discarded by California years ago, it never was a provision of the Nevada Constitution, yet no change has ever been made.

We understand that when legislation similar to AJR 1 was passed 40-0 by the Assembly in 1977, the resolution ran into a hangup in the Senate committee which briefly discussed the proposal, weren't satisfied, and because it was so late in the session, the bill was allowed to remain in the chairman's desk. May AJR 1, the first resolution introduced, have better luck this time. The hangup in the Senate committee reportedly came about because some senators felt there should be an escape hatch such as that provided by AJR 8. There's a possibility that if the sponsors want the Legislature brought under the provisions of the open meeting law they had better agree to letting the escape hatch stay open. NSPA contends that such a way out the back door would be extremely detrimental to the whole concept of open meeting legislation, and fervently hopes that the hatch will be locked tight.

We aren't contending that meeting behind closed doors is an every day occasion with legislative committees. All in all, the Legislature has operated in the open. I know personally that one senator closed a committee hearing to take testimony from gaming control board agents about all the skimming that was going on at the time. The control board didn't ask for a closed hearing, and the testimony didn't really amount to much. The senator was wrong in closing the meeting. He said he did so to protect the state's reputation. But rumors of such skimming were widely circulated and some of the testimony could well have refuted many of the rumors. And the people had a right to know if they were being cheated by skimming gamblers. If freedom is to be maintained in this country, public meetings of all kinds must remain open to the public at all times.

Exclusion of the Legislature from the open meeting law has brought many complaints from cities, counties, and probably elsewhere from time to time, And rightly so. The exclusion certainly violates the



## Nevada State Press Association

NSPA on AJR 1 and AJR 8

Joe Jackson,  
2375 South Arlington Ave.  
Reno, Nevada 89509

time-honored principle of equal justice for all. What about "justice for all?" Wise men have had their say; Enoch Arnold Bennet wrote "The price of justice is eternal publicity." Charles Dickens said that "there is nothing so finely perceived and so finely felt, as injustice." From Disraeli: "Justice is truth in action." Sir Mathew Hale admonished: "Be not biased with compassion to the poor, or favor to the rich, in point of justice." Henry L. Mencken wrote: "Injustice is relatively easy to bear, what stings is justice." Alexander Pope called justice "a solid pudding against empty praise." Voltaire said that "as our social system could not subsist with the sense of justice and injustice, the Lord has given us the power to acquire that sense."

Ladies and gentlemen, the Nevada State Press Association urges you to report AJR 1 to the floor favorably, and give AJR 8 a decent burial.

Respectfully,

Joe Jackson,  
Member and former secretary-manager of the Nevada State Press Association.

PROPOSAL FOR A JOINT RULE ON  
TAPES OF THE STANDING COMMITTEES

12

TAPE RECORDINGS OF STANDING  
COMMITTEES

1. All standing committees of the legislature shall tape record the proceedings of all their meetings.

2. Committee secretaries shall label each tape according to the date of the committee meeting, the order of its use, and, if more than one meeting is held on one day, the time of each meeting.

3. Upon adjournment sine die of any regular or special session, the tapes of all meeting of all standing committees, arranged in chronological order, shall be deposited with the director, legislative counsel bureau.

4. The director, legislative counsel bureau, shall retain the tapes of standing committees for two biennia, during which time they shall be indexed, stored and available for listening by any member of the public during normal office hours and under such reasonable conditions as deemed necessary for the protection of the tapes. The legislative counsel bureau shall maintain a log of tape access, recording the name and address of any person listening to tapes, the date and time of such activity and the tapes listened to. The log shall be a public record. At the conclusion of two biennia, the director of the legislative counsel bureau may dispose of standing committee tapes.