

MINUTES OF THE  
MEETING OF THE SENATE COMMITTEE  
ON GOVERNMENT AFFAIRS

SIXTY-FIRST SESSION  
NEVADA STATE LEGISLATURE  
April 10, 1981

The Senate Committee on Government Affairs was called to order by Chairman James I. Gibson, at 11:33 a.m., Friday, April 10, 1981, in Room 243 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator James I. Gibson, Chairman  
Senator Jean Ford, Vice Chairman  
Senator Keith Ashworth  
Senator Gene Echols  
Senator Virgil Getto  
Senator James Kosinski  
Senator Sue Wagner

GUEST LEGISLATORS:

Myron Leavitt, Lieutenant Governor  
Assemblyman Erik Beyer

STAFF MEMBER PRESENT:

Anne Lage, Committee Secretary

SENATE BILL NO. 507

Authorizes county commissioners to prohibit houses of prostitution as nuisances under certain conditions.

Senator Hernstadt requested this bill to be rescheduled as the parties concerned had not been notified.

SENATE JOINT RESOLUTION NO. 29

Proposes constitutional amendment to remove lieutenant governor as president of senate.

Lieutenant Governor Myron Leavitt addressed the committee on the merits of retaining the position of lieutenant governor as president of the senate. (See Exhibit C.)

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Senator Wagner questioned Lieutenant Governor Leavitt as to what duties he thought he should perform if this legislation was processed.

Lieutenant Governor Leavitt responded by explaining that during the last session he had presented a bill which would have created an Economic Development Commission with the lieutenant governor as head of that commission. The bill was killed in the committee. As the budget was much tighter this year, he did not reintroduce it.

When considering any duties, Lieutenant Governor Leavitt pointed out that should he have to become acting governor, whatever his duties were, there would have to be another person appointed to that position.

Chairman Gibson presented an update on the number of lieutenant governors throughout the United States. Twenty-eight lieutenant governors have presiding authority. Eleven states do not have lieutenant governors.

The committee decided to hold this bill until more research was completed as to how other states have defined the role of lieutenant governor. Also, it was agreed that specific duties should be incorporated within this bill.

ASSEMBLY BILL NO. 289

Requires each board of county commissioners to elect vice chairman.

Ms. Pat Mulroy, Clark County, testified that this bill was requested as a result of litigation they experienced concerning the business license department. It had been contended that an ordinance which was adopted was invalid because the meeting in which the ordinance was adopted was called by the vice chairman. The courts did not uphold this argument, but Clark County thought it would be wise to clarify this provision in Nevada Revised Statute, Chapter 244.

Mr. Bob Sullivan, Carson River Basin Council of Governments, testified in support of Assembly Bill No. 289.

Senator Ford moved "Do Pass" on Assembly Bill No. 289.

Senator Getto seconded the motion.

The motion carried unanimously.

ASSEMBLY BILL NO. 290

Eliminates requirement to record certificates of birth and death in county.

Ms. Pat Mulroy, Clark County, testified that this bill was requested by the Clark County Recorder. The rationale behind this bill was that since the Vital Statistics Bureau had been mandated to maintain this information, it was a duplication of effort.

Senator Getto moved "Do Pass" on Assembly Bill No. 290.

Senator Echols seconded the motion.

The motion carried unanimously.

ASSEMBLY BILL NO. 291

Allows governing bodies to provide maintenance service for vehicles owned by certain agencies and organizations.

Ms. Pat Mulroy, Clark County, testified that during the last session of the legislature, local governments were given the authority to sell motor vehicle fuel to non-profit organizations who service the elderly and the handicapped. Clark County was presently providing this service to Economic Opportunities Board for their vans and buses. The statute does not allow certain maintenance to be done, such as oil changing. This bill would amend the law to reflect this additional service.

Senator Ford moved "Do Pass" on Assembly Bill No. 291.

Senator Wagner seconded the motion.

The motion carried unanimously.

ASSEMBLY BILL NO. 216

Prohibits naming of certain public works after living persons.

Mr. Jerry Whitehead, Washoe County School Board, testified that besides himself, he was also representing the views of Ms. Virginia Palmer, president of the board.

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In reference to Assembly Bill No. 216, Mr. Whitehead did not believe the state should try to handle county problems when the county was set up to handle them. He also felt that legislation should not be drafted which was pointed particularly in a punitive manner toward one person.

In response to Senator Wagner's question, Mr. Whitehead stated that he did believe it to be good public policy to name a building after a member of the board. Mr. Whitehead gave the background of Dr. Robert McQueen and distributed a copy of an editorial which was in support of this decision. (See Exhibit D.)

Ms. Jan Hunt, northwest Reno resident, testified that she was a member of the Northwest Homeowner's Association. She stated that she was instrumental in helping to obtain 40 acres through donation, for the new high school. Ms. Hunt asked the committee to vote "No" on this bill. She did not believe there were many northwest residents who were against naming the school after Dr. McQueen. She stated that she would rather see people recognized while they live.

Ms. Elaine Kinney, northwest Reno resident, testified that after the elementary schools were named after board members, she called Dr. Picollo to request that the new high school not be named after another board member. Dr. Picollo told Ms. Kinney that this probably would not happen. She also asked if a petition served to the school board would have any effect and was told that it would not. (See Exhibit E.)

Assemblyman Erik Beyer testified that this bill was not intended to be punitive toward any one particular person.

SENATE BILL NO. 458

Allows cities and counties to exempt certain divisions of land from law governing subdivisions and parcel maps.

Senator K. Ashworth moved "Indefinite Postponement" on Senate Bill No. 458.

Senator Kosinski seconded the motion.

The motion carried unanimously. (Senator Getto voted to "Abstain".)

ASSEMBLY BILL NO. 139

Amends charter of City of Reno to require councilmen be elected by voters of their respective wards.

The committee decided not to take any action on this bill at this time.

SENATE BILL NO. 454

Transfers responsibility for preparing ballot questions and explanations for initiated and referred measures.

Senator Ford moved "Amend and Do Pass" on Assembly Bill No. 454. Line 3 would be amended out except for the transmission of Secretary of State. It shall be amended to read, "The legislature shall, at the time it proposes a constitutional amendment, prepare the statement that will appear on the ballot."

Senator Keith Ashworth seconded the motion.

The motion carried unanimously.

Senator Ford was assigned to get this amendment.

SENATE BILL NO. 441

Creates commission to promote production of motion pictures in Nevada.

Chairman Gibson indicated that he did not agree with having a commission as this bill proposed. He did think the responsibility could be assigned to the Department of Economic Development.

Senator Ford was assigned to get an amendment prepared which would remove everything except the assignment to the Department of Economic Development. The amended bill will then be re-referred to the Committee on Finance.

SENATE BILL NO. 410

Provides for agreements relating to future development of land.

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Senator Echols moved "Indefinite Postponement" on  
Senate Bill No. 410.

Senator Wagner seconded the motion.

The motion carried unanimously.

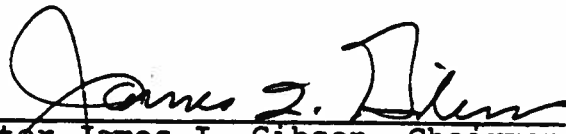
Chairman Gibson will send a letter suggesting that the Humboldt County Regional Planning Commission use a resolution of intent.

There being no further business, the committee was adjourned at 12:55 p.m.

Respectfully submitted by:

  
\_\_\_\_\_  
Anne L. Lage

APPROVED BY:

  
\_\_\_\_\_  
Senator James I. Gibson, Chairman

DATE: 4/21/81

SENATE AGENDA

REVISED 4/8/81

COMMITTEE MEETINGS

Committee on Government Affairs, Room 243.  
Day Friday, Date April 10, Time adjournment.  
upon

S. J. R. No. 29--Proposes constitutional amendment to remove lieutenant governor as president of senate.

A. B. No. 289--Requires each board of county commissioners to elect vice chairman.

A. B. No. 290--Eliminates requirement to record certificates of birth and death in county.

A. B. No. 291--Allows governing bodies to provide maintenance service for vehicles owned by certain agencies and organizations.

S. B. No. 507--Authorizes county commissioners to prohibit houses of prostitution as nuisances under certain conditions.

SENATE COMMITTEE ON GOVERNMENT AFFAIRSDATE: April 10, 1981

EXHIBIT B

PLEASE PRINT	PLEASE PRINT	PLEASE PRINT	PLEASE PRINT
NAME	ORGANIZATION & ADDRESS		TELEPHONE
Elaine Kinney	780 Bowman Dr. - Reno		797-1165
Carol Felt	1920 Kings Row	Caro	747-5363
Victoria Nelson	1595 Van Ness	Caro	747-1363
Linda Nichols	75 Coleman	Reno	747-1734
Pat Mulroy	CLARK CO. - 300 S. 4TH	L.V.	883-3502
Myron Leavitt	LT. GOV. 1521 FRANKLIN	L.V.	385-5240
Mary Howard	305 E. King Health Div.	VIPO/STAT.	885-4480



EXHIBIT C

STATEMENT OF MYRON E. LEAVITT  
LIEUTENANT GOVERNOR

STATEMENT BEFORE  
GOVERNMENT AFFAIRS

S. J. R. 29

61ST. SESSION

## LIEUTENANT GOVERNOR

The Nevada Legislature in the past has studied the office of the Lieutenant Governor and a staff study concerning the role the Lieutenant Governor was completed by the Legislative Commission of the Legislative Council Bureau in September, 1974 (Bulletin No. 123)

One of the suggestions in that report was to pass a constitutional amendment which would remove the Lieutenant Governor as President of the Senate and to provide him with other duties as prescribed by law.

When interviewed by the Legislative commission, former Lt. Governor Paul Laxalt, Ed Fike and Cliff Jones were all opposed to removing the Lt. Governor as President of the Senate. Former Lt. Governor Harry Reid indicated support for removal as President of the Senate but only if additional executive duties are made a part of the termination of legislative duties.

Senate Joint Resolution 20 of the 59th Session provided that the Lieutenant Governor shall perform such "duties as may be prescribed by law". Senate Joint Resolution 29 does not contain that provision.

The present duties of the office are set forth in the Constitution Article 5, Section 17 & 18. The Lieutenant Governor:

1. "Shall be President of the Senate, and shall have only a casting vote therein".
2. "In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the duties of the said Office, resignation or absence from the State, the powers and duties of the Office shall devolve upon the Lieutenant Governor for the residue of the term, or until the disability shall cease".

Presently the Lieutenant Governor has no statutory duties. In the past he has been given statutory duties. He served as the state librarian until 1884 and as Adjutant General until 1926.

The Nevada Supreme Court in the case of Sawyer vs. District Court, 82 Nev. 53 (1966) ruled that "absence from the state" as used in Article V Section 18 of the state constitution means "effective absence" which is measured by the state's need at any given moment for a particular act by the official when physically not present. In effect this limited the Lieutenant Governor's ability to act when the Governor is absent from the state to emergency actions that need immediate attention and can not be done by the Governor upon his return to the state. The California Supreme Court recently rejected the argument of the Sawyer case and ruled that its lieutenant governor can act in the absence of the governor and is not limited to emergency actions.

The Sawyer decision severely limited one of the constitutional duties of the office of the Lieutenant Governor, the power and duty to act in the governor's "absence from the State".

Now, with S.J.R. 29, an attack is made upon the only other duty of the Lieutenant Governor, serving as President of the Senate.

Our constitution is patterned after the Federal Constitution. In article 1, section 3 of the U.S. Constitution, it states:

"The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided".

In 41 states that provide for a lieutenant governor, 32 of them provide that he shall preside over the upper house of the Legislature, only 9 do not designate him as a legislative officer. (Nevada Legislative Council Bureau staff study on the Role of the Lieutenant Governor-1974, pg. 4 & 5).

The drafters of the Nevada Constitution were of the opinion that the President of the Senate should be the Lieutenant Governor. A delegate to the 1863 Constitutional Convention of the territory of Nevada, a Mr. Johnson, stated that "it is very important to have a man elected by the people to preside over the Senate." Although the constitution's proposal by the 1863 convention was rejected by the people a similar clause was adopted without debate during the 1864 convention and that constitution was adopted by the people of the territory.

The fact that the Lieutenant Governor is elected by all the people of the state lends itself to allow him to act impartially in his rulings so as to not favor any particular Senator or section of the state. Under S.J.R. 29 the President of the Senate would be selected by the Senators. He would be elected from a senatorial district representing only a small portion of the voters of this state. It is also possible that a person elected to such a post would resolve conflicts in favor of the senators who elected him rather than what may be best for the state as a whole.

The system has worked well for 117 years. Why change it?

The reason usually offered in support of this resolution is that it will "strengthen the legislative branch as a co-equal branch of state government" and that the Lieutenant Governor as an executive official "should not be involved in the legislative process."

The separation of powers argument is not valid. Our government is also based on a check and balance system so that one branch of government will not become stronger than another branch. Constant attempts to weaken the office of Lieutenant Governor will not "strengthen" the legislative branch, it will only weaken the executive branch.

Lieutenant Governor

The Governor's ability to veto legislation is an example of a check and balance on the legislative power. The right of the Lieutenant Governor to preside over the Senate and cast a tie breaking vote is another example.

This resolution would also allow the President of the Senate, as elected by the senate to be next in line to succession to the governor in the event of death or resignation of the Governor and the Lieutenant Governor. Thus, a member of the legislative branch of the government, one elected from only a small portion of the state could become the chief executive officer of the state.

There are some serious problems in granting the Lieutenant Governor statutory duties different from his present consitutional duties.

The most obvious being that the duties could be changed at each legislative session so that the people and office seekers would not know from one election to another the duties of the office. A governor could persuade the legislature to eliminate previously granted duties to a Lieutenant Governor who may happen to be of a different political party. Seven times in the history of this state the governor and lieutenant Governor have been of different political parties.

There are legal problems to be solved. According to the Nevada Supreme Court, (State ex. rel. Sadler vs. La Crane, 23 Nev. 216 (1896), the lieutenant governor does not become governor in the event of a death or resignation of the governor, he becomes "acting governor" for the remainder of the governor's term. "The practical effect of the distinction is that no one moves up to the office of lieutenant governor when a governor dies, resigns or becomes disabled because the office of lieutenant governor is still filled." (Nevada Legislative Council Bureau Staff Study on the Role of the Lieutenant Governor 1974-page 3)

If the lieutenant governor is given other duties it could present a problem in the operation of state government in the event the lieutenant governor becomes "acting governor". While the lieutenant governor served as "acting governor" his duties as lieutenant governor would not be fulfilled. He could not appoint a new lieutenant governor to perform them, since there would be no vacancy in that office to fill. Since 1864, Nevada has had five "acting governors" (Political History of Nevada, 1979, pag. 113)

Since the resolution does not specify any additional constitutional duties for the lieutenant governor but takes away one of his duties, this does not strengthen the legislature, it only weakens the office of lieutenant governor.

One woman and 25 men have served as Nevada lieutenant governors. They have been good public servants. The office should be given additional duties compatible with the Constitution and decisions of the Supreme Court. Those duties that the lieutenant governor now has should not be taken away.

As former Senator Cliff Young (Rep. Washoe) stated in the debate over S.J.R. 20 of the 59th Session

"The lieutenant governor should have more to do than read the obituaries every morning to see whether he should be in Carson City."

## AS WE SEE IT

### Bad Senate Decision

The state senate's decision last week to strip the lieutenant governor of authority to preside over that esteemed body was a bad one.

The Assembly is expected to kill the measure and we think rightly so. The bill was not intended as a personal dig at Lt. Gov. Myron Leavitt. We believe the point is that the legislature, with such short-sighted legislation is proving it still does not know what to do with the issue of reorganizing the lieutenant governor's office which is the most powerless in state government.

The constitution, which has not been amended since statehood, says simply that the lieutenant governor shall preside over the senate, cast tie-breaking votes when

needed and become acting governor when the chief executive is out of state. That's it. No positions on high state boards or commissions. Nothing.

Candidates from both parties seeking the job over the years have raised the issue of beefing up responsibilities in the office. They argue, we think convincingly, that a person who could inherit the governor's chair through any contingency should have experience as a working member of government.

A good reorganization bill should be drafted so that the lieutenant governor's office will cease to be just a staging area for an individual to plan a campaign for governor.

# Nevada State Journal

109th Year—No. 75

Winner of The Pulitzer Prize for Editorial Writing

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James P. Rowley ..... Marketing Director

← Monday, February 5, 1979

## Editorials

### Destructive...

Lt. Gov. Myron Leavitt is caught in the middle of a slick squeeze play that could deprive his office of the only real power and influence it has: presiding over the Senate.

Despite Leavitt's objections, the Senate Legislative Functions Committee has approved a bill which would strip the lieutenant governor of this job.

Leavitt is convinced the move is retaliation against former Lt. Gov. Bob Rose, who used his position during the last session as part of a crafty move which allowed him to vote on the Equal Rights Amendment and have the ERA approved by the Senate.

Many of the Senate's leading lions were indeed enraged that young upstart Bob Rose pulled the rug out from under them and slicked the amendment through, and they may indeed be vindictive enough to punish Rose in absentia. But it's rather like punishing a new executive for the faults of his predecessor.

Leavitt is no Bob Rose. He's a Mormon, a conservative Democrat, and a long time member of the Clark County political power structure. He is an ambitious politician, to be sure, and one who has his eyes on the governor's seat himself. But he is not about to sneak around behind the back of Senate Majority Leader Jim Gibson and form an alliance with Senate liberals.

The bill which would remove him as presiding officer does allow him to be granted new powers, but it doesn't specify which powers. And if it passes, the lieutenant governor might just as well pack his bags and go home, calling in from time to time to check for mail (if any arrives) and change addresses if he moves.

The lieutenant governor is virtually powerless in Nevada. The present administration might prefer to keep it that way. The office of lieutenant governor is a common stepping stone to the governorship. Paul Laxalt and Vail Pittman managed the transition. And any governor, particularly a first-term executive, would be mighty nervous to find a vigorous lieutenant governor with expanded powers competing with him for attention.

The present bill before the Senate should be dumped. We see no utility in it, and for lack of anything else, it probably is designed as a none too subtle warning to Leavitt to go along or the Legislature will pounce on him.

Instead of toying with these rather silly threats, the Legislative Functions Committee might devote its time to a reconsideration of the role of the lieutenant governor and make specific proposals for redefining the job.



EXHIBIT D

## The right choice

Washoe County School Board members did well in deciding to name the new high school soon to be built in Northwest Reno for trustee Robert McQueen, though some citizens have been complaining about the practice of reserving such honors exclusively for educators.

No person in any occupation or any station, it would seem, is more deserving of the honor than McQueen.

He has been a fine educator, to be sure, having served 25 years as professor of psychology at University of Nevada, part of that time as a dean, and having been a popular enough board member to have been elected twice.

But he is far more than that. Before joining the university, he was a clinical psychologist at the state mental health institute in Sparks. His writings have been published in popular national magazines.

He has been named to several state boards of various kinds and has served as president of some of them. The Reno Police Department has used him as a consultant.

No ivory tower educator is McQueen. He is or has been involved in Boy Scout and Campfire Girls activities, the Sparks Junior Baseball League and the Washoe County Youth Coordinating Council. He has shown keen interest in local public affairs.

He is also regarded generally as an all-around nice fellow. Had he chosen another occupation, it is probable that he would still have distinguished himself enough to have a high school named after him.

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WE, THE UNDERSIGNED, HEREBY EXPRESS OUR SUPPORT FOR ASSEMBLY BILL 216 OF THE 61ST SESSION OF THE NEVADA LEGISLATURE WHICH WILL PROHIBIT THE PRACTICE OF NAMING PUBLIC FACILITIES AFTER LIVING PEOPLE WHILE SUCH INDIVIDUALS SERVE ON BOARDS, COUNCILS AND IN ANY OTHER PUBLIC OFFICE, EITHER APPOINTED OR ELECTED.

EXHIBIT E

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Katherine A. Nimity	2940 Apollo Way	747-4290
William W. Nimity	2940 Apollo Way	747-7290
Nadine Nelson	1595 Van Ness	747-1363
Jindra Melillo	75 Coleman Dr.	747-1734
Mary Ann Lomas	1450 ...	747-2234
Olga de Mate	3535 Bay St	747-7934
Rich A. Pavin	2385 Van Buren	747-1602
...	3365 ... Dr.	747-6677
...	...	747-2234
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