

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-Ninth Session  
April 4, 2017**

The Committee on Legislative Operations and Elections was called to order by Vice Chair Nelson Araujo at 1:35 p.m. on Tuesday, April 4, 2017, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/79th2017](http://www.leg.state.nv.us/App/NELIS/REL/79th2017).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Nelson Araujo, Vice Chair  
Assemblyman Elliot T. Anderson  
Assemblywoman Shannon Bilbray-Axelrod  
Assemblyman Skip Daly  
Assemblyman John Hambrick  
Assemblyman Ira Hansen  
Assemblyman Richard McArthur  
Assemblywoman Daniele Monroe-Moreno  
Assemblyman James Ohrenschall  
Assemblyman James Oscarson

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Olivia Diaz, Chairwoman (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Jason Frierson, Assembly District No. 8

**STAFF MEMBERS PRESENT:**

Carol Stonefield, Committee Policy Analyst  
Kevin Powers, Committee Counsel  
Julianne King, Committee Secretary  
Melissa Loomis, Committee Assistant

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**OTHERS PRESENT:**

Emily Zamora, State Director, Silver State Voices  
Holly Welborn, Policy Director, American Civil Liberties Union of Nevada  
Megann Johnson, Intern, Progressive Leadership Alliance of Nevada  
Sondra Cosgrove, First Vice President, League of Women Voters of Nevada  
Katherine Lorenzo, Organizer, Chispa Nevada, League of Conservation Voters  
Reverend Leonard B. Jackson, Director, Faith Organizing Alliance, Las Vegas, Nevada  
Betty Bishop, Leader, Acting in Community Together Organizing Northern Nevada  
Maria-Teresa Liebermann, Deputy Director, Battle Born Progress  
Barbara Hartzell, Private Citizen, Las Vegas, Nevada  
Alicia Contreras, Nevada State Director, Mi Familia Vota  
Vida Lin, President and Founder, Asian Community Development Council, Las Vegas, Nevada  
Frank Slaughter, Private Citizen, Las Vegas, Nevada  
Marla McDade Williams, representing Reno-Sparks Indian Colony  
Priscilla Maloney, Government Affairs Retiree Chapter, Local 4041, American Federation of State, County and Municipal Employees, AFL-CIO  
Rita Weisshaar, Vice President, Nevada Alliance for Retired Americans  
David Cherry, Communications and Intergovernmental Relations Manager, City of Henderson  
Wayne Thorley, Deputy Secretary for Elections, Office of the Secretary of State  
Luanne Cutler, Registrar of Voters, Washoe County  
Kathy Lewis, Clerk-Treasurer, Douglas County  
Joseph P. Gloria, Registrar of Voters, Clark County  
Fawn Douglas, Private Citizen, Las Vegas, Nevada  
Yvonne M. Nevarez-Goodson, Executive Director, Commission on Ethics  
Ray Bacon, representing Nevada Manufacturers Association  
Justin Harrison, Director, Government Affairs, Las Vegas Metro Chamber of Commerce

**Vice Chair Araujo:**

[Roll was taken. Rules were explained.] This is my first time chairing this Committee, so I will need the members' patience and indulgence. The Committee's first order of business will be to hear Assembly Bill 272. I will open the hearing on Assembly Bill 272, which is a proposal relating to election administration.

**Assembly Bill 272: Revises provisions relating to elections. (BDR 24-851)**

**Assemblyman Jason Frierson, Assembly District No. 8:**

Assembly Bill 272 represents my effort to encourage as many people as possible who are eligible to participate in the electoral process to vote. That is in its simplest terms. I can go through the bill relatively quickly, but I think that given the kind of attention elections have

received over the past several years, it is important that the Legislature allows, encourages, and enables as many people who are eligible to vote to do that. I think it is important that we make it as easy and convenient as possible.

When I first ran for the Nevada Assembly, my district had eight senior mobile home parks. Many of those mobile home parks had polling places within their facilities that were the designated polling places for decades. As the Las Vegas Valley grows and expands, and as polling places change based on boundaries, those folks often show up on Election Day and are unable to vote because their polling place changed. We all get cards in the mail, but having that change after decades was a difficult transition for the senior citizens in my district. At the end of the day, the Legislature is trying to make sure that folks who are eligible to vote are able to do so. That was the impetus behind the bill. This bill recognizes that different regions of the state have different challenges. Clark County, in particular, has both urban and rural portions that have different implications. I think this bill attempts to allow the counties to adjust to do that in a permissive way. A mock-up amendment was circulated and is on the Nevada Electronic Legislative Information System (NELIS) ([Exhibit C](#)).

I am going to go through the bullet points of the bill and answer questions to the extent that they address the intent of the bill. Section 2 of this bill would allow county clerks one or more polling places in the county where any person entitled to vote by personal appearance may do so on the day of the primary or general election. I believe the original bill draft request (BDR) was mandatory and used "shall," and the mock-up changed that to a permissive "may."

Looking at sections 27 to 30, they set forth corresponding provisions allowing city clerks to do the same. It also changes it from mandatory to permissive. Section 6 and section 31 of the bill require, under certain circumstances, the county and city clerks to establish at least one polling place within the boundaries of Indian reservations or Indian colonies. The proposed mock-up sets forth that it is at the request of the reservation or colony and at a location or locations approved by that tribe.

Section 9 of the bill authorizes that voting materials will be provided in both Mandarin and Cantonese. This is simply reflecting the vast number of residents of our state and our community who speak Mandarin and Cantonese as their primary language. The background in that section is that 24,000 people in Clark County speak a Chinese language as their primary language at home. Of those, over 14,000 do not speak English fluently. Because it is broken down between primarily Mandarin, Cantonese, and some other smaller languages, it falls below the 10,000 level mandated by federal law. We are trying to get ahead of that, though. We predict Nevada will reach that number, and we need to incorporate that into Nevada's laws and begin to have those ballots printed in Mandarin and Cantonese. The bill authorizes counties to do it, and I think we will accomplish our goal of allowing constituents to make their case to their local governments. This is permissive, and it allows those communities to make their case and encourage local governments to incorporate that provision.

Sections 10 and 33 remove changing the closing time on Election Day. Originally, I proposed that should be expanded to 9 p.m. We are trying to take into account the varied work schedules in our community and allow as many people to vote as possible. However, existing law already provides that if a person is in line by the prescribed time, they be allowed to stay in line and vote. There were some points brought to my attention regarding some surrounding states that have different closing times and how that might create some problems and affect actual turnout. Numbers start to come in because polls are already closing. If a polling location is open two hours later than the others, that may result in some folks going home and not wanting to participate.

There are some surrounding states that are open until 8 p.m., and there are a few more that are open until 7 p.m. Oregon and Washington do all mail-in ballots, so there is no closing time. Hearing from Clark County, in particular, we decided to leave the closing time at 7 p.m. When I started out, I did not recognize that there was actually a law on the books that said if someone is in line, they are allowed to vote. I thought it was a local practice. It gave me some comfort when I recognized that the law already provides that if someone is in line, they are still able to vote.

Sections 16 and 38 of this bill allow for clerks and registrars to extend the period of early voting until the Sunday before Election Day. This is also permissive. One of the things that I found with election cycles is that a person could vote on the weekend the week before the end of early voting. The following week, I had many neighbors who said that they were going to vote on Saturday but did not realize that Friday was the last day to early vote. This allows the clerks and registrars to give that more time. I recognize there were some concerns about the ability to move equipment by Tuesday, so making it permissive allows the various jurisdictions to do what they are able to do. It provides an opportunity to include the last weekend, so anyone who was unable to vote the previous weekend but cannot vote during the week still has an opportunity to vote early.

Sections 17 and 39 allow, under certain circumstances, a county or city clerk to establish at least one temporary place for voting within the boundaries of an Indian reservation or colony at the request of the reservation or colony. There had been concerns about the size of the colony, but, because the temporary polling place is upon request and is permissive, it allows for local flexibility. At the end of the day, we want more folks to vote. It has nothing to do with what part of the state someone is from. It has nothing to do with what party affiliation someone has. There are going to be some jurisdictions that have more of one or the other, such as more seniors, more millennials, or more working class people. At the end of the day, our goal should be to have as many people who want to vote able to vote. They should be able to vote in a process that is easy to understand, consistent, and allows various jurisdictions to adapt in order to meet their local needs.

That is the intent of the bill. I welcome any questions. I know that there are some folks who are interested in offering some amendments. I believe that I have tried to incorporate at least the concerns of Clark County in the amendment. They will be able to address whether those concerns were included in the mock-up.

**Vice Chair Araujo:**

Are there any questions from the Committee?

**Assemblyman Ohrenschall:**

I have a quick comment. In 2013, there were some measures that made it to the Governor's desk that called for vote centers and extending early voting. Unfortunately, they were vetoed by the Governor. A bill like this recognizes Nevada's large population of Mandarin and Cantonese speakers and the whole vote center idea. Every Election Day, I get calls from constituents who missed early voting, but they knew how convenient it was. They knew they could go to the Boulevard Mall, Meadows Mall, and the Galleria at Sunset mall. They could go anywhere in the county. It did not matter where they lived. They could vote right after work. They could vote when they dropped their kids off. Suddenly, it is like the 1950s again on Election Day. People had to find a school in their old neighborhood by 7 p.m., and if they are not there, they are disenfranchised. What Clark County offers in terms of early voting is great. I hope Nevada can move to vote centers with this legislation, because the more people who participate, the stronger our democracy is.

**Assemblyman Daly:**

I have a technical question. In section 5, subsection 3, it says, "ballot or ballots." I have been racking my brain since I read it and do not know why it says "ballots" when a person is only supposed to get one.

**Assemblyman Frierson:**

Are you referring to the mock-up or the original bill?

**Assemblyman Daly:**

It is page 3, line 32 in the original bill. It is page 2, line 27 in the mock-up.

**Vice Chair Araujo:**

We also have Mr. Kevin Powers in Las Vegas if that needs to be clarified.

**Assemblyman Frierson:**

I would defer to the registrars and clerks. The language was intended to incorporate practice. I do not know if they are referring to when someone is voting for both municipal and county candidates. I know that the intention was to lift the terminology currently used in statute.

**Assemblyman Daly:**

I figured there was an explanation. I just have to ask.

**Assemblyman Frierson:**

I would defer to the county clerks to answer that question if they have an answer that reflects current practice and terminology.

**Assemblyman Daly:**

I have one question that has to do with having a polling place on the Indian reservations. I agree with that. I know there was a big controversy in Washoe County over that. I think they got it resolved. Where it says that it has to be approved by the tribe, I know there is a lot of effort made by the clerks to find locations and various things. I did not know if that language was going to work if someone on that reservation was saying that it has to be here, whether it would work and could accommodate people. You have to consider the Americans with Disabilities Act of 1990 and all that stuff. If the tribe can trump you and say that it has to be here, it could create a problem. I do not know if you thought about that.

**Assemblyman Frierson:**

I have no intention of engaging in a dispute about sovereignty. First, it is permissive. The county clerks are permitted to do it. Second, it allows it to be at the request of the colony or reservation. I would defer to their governing bodies to the extent that they are sovereign. They would be more aware of what would be appropriate for their particular tribe or colony. When we provide polling places, the participation rate goes up five-fold.

**Assemblyman Daly:**

I just wanted to get a little explanation. I understand sovereignty and all that kind of stuff. Who knows if the rest of those federal laws apply? I believe they do, but I did not want to have an argument that did not need to happen.

**Assemblywoman Bilbray-Axelrod:**

I am looking at the Douglas County proposed amendment ([Exhibit D](#)). You mentioned that you had worked with Clark County and incorporated some of their language into the mock-up. I am just trying to crosscheck it because the Committee just saw the mock-up for the first time. Was the Douglas County proposed amendment able to make it into the mock-up as well?

**Assemblyman Frierson:**

I have not had any conversations with Douglas County. They may have spoken with someone in my office, but I am unaware of whether that conversation took place. I am not in a position to address the Douglas County proposed amendment.

**Assemblywoman Bilbray-Axelrod:**

It says, "The amendments below are in addition to those already submitted by Clark County" ([Exhibit D](#)). If there is someone from Douglas County, I would like to hear from them.

**Vice Chair Araujo:**

When they come up, the Committee can ask them that question. Are there any other questions from the Committee? Assemblyman Frierson, you were kind enough to provide us with a list of folks that you wanted to testify in support of the bill. Would you like us to move to that lineup now, or do you have any further comments?

**Assemblyman Frierson:**

I have no further comments. The list I provided is made up of parties who had contacted me and intended on supporting the bill. It is the Vice Chair's pleasure as to whether you would like to go in that order or simply open it up. I have no preference. I appreciated their willingness to talk with me. I appreciated Clark County's willingness to work with me. At the end of the day, my goal was to find something that was a practical and empowering piece of legislation for local government, so we are not forcing unfunded mandates but authorizing them to do what, in some instances, many of them are already starting to do.

**Vice Chair Araujo:**

We will now open it up for testimony in support of A.B. 272. Your first speaker, Emily Zamora, is in Las Vegas. Before we queue it up for Ms. Zamora, I wanted to remind everyone that we have many folks who signed up to testify. We are going to set the timer for three minutes in the sake of fairness to both sides. We will be reminding testifiers if they go over that three-minute limit.

**Assemblyman Frierson:**

I may step out, but I will make myself available towards the end if there is anything that still needs to be addressed.

**Emily Zamora, State Director, Silver State Voices:**

Silver State Voices serves as a table for 11 nonpartisan, nonprofit organizations that have 501(c)(3) status. They conduct civic engagement programs in Nevada. In 2015, Silver State Voices, along with multiple community organizations, formed the Let Nevadans Vote Coalition to work to protect and expand the accessibility, efficiency, and integrity of elections for all Nevadans. Combined, we encourage and assist thousands of Nevadans to register to vote for the first time or update an existing voter registration every year. Our efforts also include, but are not limited to, voter registration, voter protection programs, voter education, get out the vote programs, and advocating for fair voting legislation, as we are doing today. Our community-based work is vital to helping citizens become engaged in democracy, especially those who feel they are underserved and minority communities. Today the coalition stands in support of Assembly Bill 272, as it is a bill that makes voting more accessible to the voters who we interact with on a day-to-day basis.

I am here merely to introduce our coalition partners, and quickly go over the parts of the bill that we will be discussing in detail today. We will be discussing polling locations on reservations, electronic poll books, voting centers, extending the days of early voting, and the addition of Cantonese and Mandarin in voting material.

**Holly Welborn, Policy Director, American Civil Liberties Union of Nevada:**

The American Civil Liberties Union (ACLU) of Nevada supports expansion of Nevada's freedom to vote. The right to vote is protected by more constitutional amendments than any other right we enjoy as Americans. The simple act of voting allows citizens to transform every level of government by choosing people to represent them and enact or prevent laws. Nothing is more important to our democracy; a healthy democracy must include the voices of all its citizens.

This past election cycle, Nevada experienced a landmark court decision and some settlement agreements that broadly expanded the right to vote. These included *Sanchez v. Cegavske*, No. 3:16-cv-00523-MMD-WGC (D.Nev. Oct. 7, 2016), which brought early voting sites to the Pyramid Lake Paiute tribe; and an agreement between our organization, several voting rights organizations, and the Office of the Secretary of State to comply with the Voting Rights Act (1965). This bill will further protect our rights by ensuring that more Native Americans on tribal lands have equal access to polling places. Offering materials in additional languages, extending early voting to the weekends for working voters, extending the time for those who are in line to vote, and all the provisions this bill will allow will expand our freedom to vote.

**Megann Johnson, Intern, Progressive Leadership Alliance of Nevada:**

I am testifying for Stacey Shinn. We are in support of A.B. 272. Assembly Bill 272 would provide crucial additions to the voting process that would make voting more accessible to Nevada's communities. First, giving the options for counties to have a polling location in every county that would be used in both early voting and Election Day is overdue. Currently, during early voting, voters can vote at any location in their county. On Election Day, they must go to their assigned voting location. This often causes confusion amongst voters. It makes sense to make this the norm during elections, both in early voting and on Election Day.

Assembly Bill 272 would decrease the confusion that often arises for voters, thus making voting easier and more accessible. Furthermore, A.B. 272 would extend early voting until the Sunday before Election Day. This is crucial to making voting more accessible to everyone. We have to recognize that many working class people do not have Monday through Friday jobs that accommodate them to be able to vote before elections. Extending early voting by a couple of days is crucial and would allow more people to vote. Voting should be for everyone. Assembly Bill 272 is about making elections for everyone, which is what elections should really be about. We need to make sure every voice is heard. Assembly Bill 272 would make voting accessible for everyone. We must ensure its passage.

**Vice Chair Araujo:**

We are going to take it back to Las Vegas.

**Sondra Cosgrove, First Vice President, League of Women Voters of Nevada:**

The League of Women Voters of Nevada supports A.B. 272. We are particularly interested in ensuring that all Nevada's counties have access to electronic poll books, and with them, the



ability to have vote centers on Election Day. Vote centers would be more convenient for voters and should almost eliminate provisional ballots due to voting at the wrong polling site. This will ensure that every vote cast will be counted.

**Katherine Lorenzo, Organizer, Chispa Nevada, League of Conservation Voters:**

A component of our program is civic engagement through voter registration, voter education, and get out the vote. I am here in support of A.B. 272, specifically to testify on why vote centers are essential in increasing voter turnout in our communities.

Our organization works in both the Las Vegas and Reno communities, and our constituents are frustrated when it comes to their polling locations. We often see community members who feel frustrated because they think they are supposed to go to one location and find out on the day of election that they went to the wrong location. Many community members called the Chispa office on Election Day feeling lost because they either moved or thought it was the same location as their caucus site. People also showed up to the early voting locations thinking that was where their polling location was, and Chispa had to redirect them. Chispa recognizes that technology has made finding a poll location easier; however, there are still many voters who do not feel comfortable logging on to the Internet to look up their polling location.

Many of the people Chispa interacts with work multiple jobs, and the only day that they may get to go out and vote is on Election Day when their employer is required to allow them a maximum of two hours to go vote. Being able to go to a voting center that is close to their job instead of their designated polling location would facilitate the process of voting, so they can return to work in a timely manner.

In 2016, the feedback Chispa received from the community was that they felt frustrated because they did not have access to a location, did not have a ride, or just did not know their locations. People would constantly ask where their locations were and talk about how far it was and how inconvenient for them to travel to their voting locations since they are restricted to one location on Election Day.

Low propensity voters are often people in our community who have to go out of their way to vote. First-time voters, specifically young voters, are turned off when they have a negative experience. Getting lost on Election Day or realizing they went to the wrong location can negatively impact voting for the first-time voter and voter turnout. Having a consistent voting center location for the community will encourage more people to actively vote and increase voter turnout.

**Reverend Leonard B. Jackson, Director, Faith Organizing Alliance, Las Vegas, Nevada:**

Unfortunately, Pastor Ralph Williamson could not be with us today. Voting laws should be made to be convenient and make it easier for people to get out to vote. In fact, making voting more convenient is crucial towards increasing voter turnout, which is very instrumental to the citizens, especially the African-American community, and those who

work 24 hours, seven days a week. The government has an obligation not to restrict voting, but to provide all possible means for individuals to vote, especially extending the hours and the days for voting locations.

When the weekends are extended, the Faith Organizing Alliance has a special program called "Souls to the Polls." On Sundays, we pool together the churches in northern Las Vegas to take their parishioners to the polls immediately following their church services on Sunday. This past election cycle, the Faith Organizing Alliance found that turning out individuals immediately following church service to the polls increased at least three-fold the number of individuals who went to the polls to vote. We say that this is very instrumental. We ask you to continue this, and if possible, to build upon this. Continue to extend the obligation to the community, so we can all take our souls to the polls.

**Betty Bishop, Leader, Acting in Community Together Organizing Northern Nevada:**

I am a leader for Acting in Community Together Organizing Northern Nevada (ACTIONN), which is a faith-based, organizing nonprofit that organizes people of many faiths around issues of economic, racial, and social justice.

One of our primary campaigns during election season is voter registration and get out the vote. The ACTIONN organization strongly believes that a thriving democracy depends on the participation of every single eligible voter, and ACTIONN does its best to ensure that both faith communities and voters who are typically marginalized have opportunity to make their voices heard. For these reasons, ensuring access to voting is the most essential objective that ACTIONN must undertake, and A.B. 272 provides the necessary access that is currently denied.

First, Sunday voting is essential for faith communities. "Souls to the Polls" programs across the state and nation have been massively successful in getting members of a wide variety of faiths to the polls after their respective services. In recent elections, ACTIONN worked to preserve Sunday early voting in Washoe County with extremely successful results. Today, we are able to create successful campaigns in getting faith communities to the polls.

Additionally, racial justice remains a cornerstone of ACTIONN's mission. The voting protections included in this bill would enfranchise citizens of Chinese and Native American origin who are frequently disenfranchised by the system. It is often difficult to imagine the roadblocks to voting that are placed on these communities when the voting system is tailored to our needs, but they are indeed great. These simple solutions would enfranchise more citizens.

The ACTIONN organization encourages the Committee to vote in favor of A.B. 272 in order to ensure that people of faith and people of color are fully enfranchised in a way that all U.S. citizens should be entitled to.

**Maria-Teresa Liebermann, Deputy Director, Battle Born Progress:**

I am here to support Assembly Bill 272. I had the opportunity to vote today at one of the many voting centers that were open in Las Vegas. My mother was also able to vote. It was very easy to go to our grocery store across the street and cast our ballot today, instead of trying to figure out which is the correct polling location to be able to vote at. It can be very challenging for working people and anyone who wants to vote on Election Day to find their correct polling location, vote when their schedule permits, and find their way there during their busy schedule.

For example, my mother, who voted with me today, is a housekeeper. She works long hours, has odd days off, and sometimes cannot vote on any other day but Election Day. It was a sense of relief for her and her coworkers to find out that they were able to vote today and had a selection of voting centers to vote at, instead of only one location. Voting centers work during early voting, and it makes sense to do the same on Election Day. Many working people can only vote on Election Day. This just makes it easier and more accessible for them to vote. We should make one of the most sacred rights in this country more accessible, so I urge everyone in the Committee to support A.B. 272.

**Barbara Hartzell, Private Citizen, Las Vegas, Nevada:**

I am an enrolled member of the Chemehuevi Indian Tribe and a descendant of the Las Vegas Paiute Tribe in Nevada. I am here in support of A.B. 272, especially with the provision regarding Indian reservations and colonies. We have over 30 tribes in Nevada, many in rural areas. They have to travel great distances to go to polling locations, and many do not get the opportunity. Many elders do not drive. Last year alone, northern Nevada tribes had litigation to have polling locations in their area so they could vote. It was extremely successful, and I think we should continue to build on that success, especially when it comes to the indigenous nations here in Nevada.

**Alicia Contreras, Nevada State Director, Mi Familia Vota:**

We are here on behalf of Assembly Bill 272, particularly in regard to the extension of early voting. Many members of our community are not working 9 a.m. to 5 p.m., Monday through Friday whereby they have the access and ability to take time off work to go to polling locations. Although it is allotted to them by Nevada law, the idea of missing time and hours affecting their wages in order to vote is something that they often have to choose between. Allowing these members of our community to have access to voting on Saturdays and Sundays, especially the weekend before Election Day, is very helpful to adding to our democracy and having more inclusiveness as far as our members being able to vote and voice their opinion in what is going on. We have members who are single mothers who work in casinos, specifically the third shift. They work Monday through Friday, are exhausted, and need time to go home and tend to their children, then return to work. Having the ability to vote on Saturday and Sunday is very helpful to them and will increase access. It is especially helpful in regard to having the opportunity to vote in a location that is close to home and not having to search for the correct one. This will continue to help them and decrease confusion with voting.

**Vida Lin, President and Founder, Asian Community Development Council, Las Vegas, Nevada:**

The Asian Community Development Council is here today to discuss the support of A.B. 272 and specifically to outline why we support section 9, which requires voting materials to be in Chinese. Nevada has the 17th largest number of Asian and Pacific Islander residents in the United States, but is ranked first and experiences the fastest growth with this population. The Chinese population has an estimated 32,423 people in Nevada, second only to Filipinos. The main languages of the Chinese community are Mandarin and Cantonese. In 2012, the Clark County Election Department began offering voting materials in Tagalog. We believe that this would be similar to the Chinese community, as 53 percent of the Chinese Americans in Nevada have limited English proficiency. Providing voting materials to this demographic in their native language will make this population feel more comfortable in the voting process.

**Frank Slaughter, Private Citizen, Las Vegas, Nevada:**

I am here to testify in support of A.B. 272. It is no secret that participation in our elections is the cornerstone of our democracy. Registration is the first step in getting to the voting booth. Nevada must make it easier and more accessible for citizens to take part in this very sacred right.

Coming to Las Vegas out of the military, I wanted to be part of the community. I volunteered with University of Nevada, Las Vegas (UNLV) for over ten years as a boxing coach. At the same time, for three years, I facilitated at the St. Thomas More Catholic Church's youth program. I also wanted to get involved in our local politics. I spent many election cycles walking and talking with residents of Clark County to register and encourage them to vote.

The 2012 election was a very productive election year for me. I had the idea of targeting a specific demographic of high schoolers that would be 18 years old by the 2012 election. I assembled a mock election booth. I then asked administrators of various high schools if I could set up in their cafeteria during the lunch period. Some schools opted out while others welcomed me. As much as I had my opinion on whom I preferred on Election Day, I did not want to taint the process, and it would not have been ethical to interject my opinions. It was simply an exercise in civics.

For most potential voters, the act of registering to vote is a passive act. A citizen is out and about, and someone walks up to them with a clipboard and asks if they want to register to vote. Sometimes the citizen's hands are full with groceries, or they are just too busy that day to register to vote. Hopefully, the next time they are able to take a moment to fill out a registration form.

The act of voting is kinetic. A person has to plan their day, find their station, and get there. Extending the hours and days should be viewed as simply a way to allow those who actively want to participate to do so. Since there is not a national holiday for voting, it is in our interests to extend the hours and days for voting to provide opportunities for people who are not able to get off work.

Nevada should be very proud of its democracy in the state. Nevada could be the template for other states to provide extended opportunities for people to vote. Nevada should be looked at as a shining example for other states to follow. Voting is the cornerstone of our democracy. The crux of what I am talking about is that we want people in this country to vote. Let us pass A.B. 272 to ensure the right that our democratic process is open to all.

**Vice Chair Araujo:**

This concludes the list I received, but I know that many others signed in to support A.B. 272. I am going to bring it back to Carson City for anyone who wants to testify in support of A.B. 272.

**Marla McDade Williams, representing Reno-Sparks Indian Colony:**

The Reno-Sparks Indian Colony simply wants to go on record in support of the provisions relating to polling places on Indian reservations and colonies. I am available for questions.

**Priscilla Maloney, Government Affairs Retiree Chapter, Local 4041, American Federation of State, County and Municipal Employees, AFL-CIO:**

The American Federation of State, County and Municipal Employees (AFSCME) is in support of this bill. The American Federation of State, County and Municipal Employees has been tracking this bill because when it set its legislative priorities in the fall, behind the Public Employees' Retirement System (PERS) and the Public Employees' Benefits Program (PEBP), voting accessibility for seniors is a very high priority for the AFSCME Retiree Chapter this session.

**Vice Chair Araujo:**

Is there anyone else in Carson City testifying in support?

**Rita Weisshaar, Vice President, Nevada Alliance for Retired Americans:**

The Nevada Alliance for Retired Americans represents over 17,000 seniors and retired Nevadans. We stand in support of A.B. 272. Getting to vote is a major issue, which is especially important for seniors. A few years ago I was on a steering committee for the Washoe County seniors. The number one issue for the seniors we surveyed was transportation. Making it more difficult to get to the polls is not what we want to do for our seniors.

Another issue that came up was in the rural areas. One of the seniors I recently talked to said that his precinct, due to circumstances he did not understand, shortened their polling hours, which made it more difficult for him to vote. Assembly Bill 272 gives everyone, but especially seniors, a greater opportunity to cast their vote on Election Day. The members of the Nevada Alliance for Retired Americans stand in support of A.B. 272.

**David Cherry, Communications and Intergovernmental Relations Manager, City of Henderson:**

I just wanted to say that we are here in support of the bill. If any Henderson residents who have not voted, yet are listening, today is Election Day. We have nine conveniently located polling centers that are open until 7 p.m.

We use the vote centers. They are very effective in the City of Henderson, so we appreciate the inclusion of that option and the permissive language that was accepted as an amendment in the bill on behalf of the bill sponsor.

**Assemblyman Ohrenschall:**

I am very fond of what is going on in Henderson. I represent part of Henderson. Since the vote centers have gone into effect in Henderson, has there been an increase in voter participation?

**David Cherry:**

If you will permit me to get the answer offline, I would be happy to do so. I will mention that yesterday, we announced that in this year's municipal primary election that is going on right now, we had record early voting turnout. I think that a portion of that was due to the ease of which people could vote at the voting centers.

**Assemblyman Hambrick:**

I have a comment. My wife and I have lived all over the country. We lived in Dumfries, Virginia. It is a tiny community in Virginia near south Washington, D.C. It is one of the oldest communities in the country. I had the privilege to be involved in their voting process. When the polls closed, they gave me a school bell, and I had to stand at the end of the line and yell, "The polls are now closed." When I got to the doors, they closed and locked them after I returned the bell. It is just a comment.

**Vice Chair Araujo:**

Is there anyone in Las Vegas who wants to testify in support? [There was no one.] Is there anyone in Carson City? [There was no one.] We will go ahead and move to opposition. Is there anyone who wants to testify in opposition? [There was no one.] We will move to neutral. Is there anyone who wants to testify in the neutral position?

**Wayne Thorley, Deputy Secretary for Elections, Office of the Secretary of State:**

I am here on behalf of Secretary of State Barbara Cegavske. First of all, I would like to make a public service announcement. Today is Election Day in southern Nevada. If you are a registered voter in any of the incorporated cities in southern Nevada, make it to the polls

that are open until 7 p.m. today. All four incorporated cities in southern Nevada are using the vote centers right now, so voters can vote at any location in your city. Make your voice heard.

I had a chance to review the proposed mock-up from Assemblyman Frierson. It appears to address many of, if not all, the concerns that the Secretary of State's Office had with the bill. I would like to add one more comment. Regarding the Indian tribes requesting a polling location, the Secretary of State's Office would like a date by which that request must be received to be added. Planning and preparing for an election takes a lot of time due to poll worker training, preparing voting machines, and things of that nature. It would help our local election officials with planning if we could establish a date by which those are to be received.

**Luanne Cutler, Registrar of Voters, Washoe County:**

Washoe County is amending on the fly because we did not get a chance to review all of the proposed amendments. It seems as though many of our concerns have been addressed, but I would like to make a couple of comments. Regarding the applause for vote centers, we could not agree more. For a long time, that is something we have been reaching for. It would also make our jobs easier. We are very much in support of moving forward with vote centers.

Regarding sections 6 and 17 requiring at least one polling place within the boundaries of an Indian reservation or colony, the verbiage currently reads, to be ". . . approved by the Indian tribe." We would like to see that softened to read, "mutually agreed upon by the tribe and the registrar of voters," rather than suggesting strict approval by an entity outside of a county election department. Although we expect a cooperative relationship and will work in good faith to provide ample locations, the current language puts election officials in a very awkward and possibly debilitating position. Assemblyman Daly mentioned the lawsuit we all dealt with last fall. We need to be sure we address this properly. We resolved that matter. I believe we have a good plan going forward that will take care of any issues that were in front of us prior to this.

Section 16 extends early voting through the Sunday before Election Day. That would leave us without time to be able to prepare the rosters for Election Day. The last of Election Day supplies go out on Monday morning, which would give us less than 12 hours to prepare laptops, scanners, and other related equipment being returned after the close of early voting on Sunday evening. This also leaves no room for any unforeseen obstacles or last minute updates that are often necessary.

If more days of early voting are desired, we would like to suggest that they are added to the beginning of the early voting period, not the end. Extending early voting through the Sunday before Election Day would give us only half of one business day to prepare Election Day rosters and get other relevant materials updated for pick up by poll workers on Monday morning. Our current process demands a turnaround time of no less than 31 hours with all

hands on deck. This change would leave us with 12 hours at most. Those are all the comments I have. Otherwise, we are happy with being supportive of the bill with the suggested amendments.

**Vice Chair Araujo:**

I believe the mock-up makes weekends permissive. That language is permissive, so I wanted to make sure that is clarified in case it was still a concern on your end.

**Luanne Cutler:**

It looked like having early voting on Sundays was the permissive part. We were still mandated to be open through the Sunday prior to Election Day. Forgive me for not having a chance to review that. I am not sure where that stands.

**Vice Chair Araujo:**

We can always circle back to Mr. Powers if we need additional clarification.

**Kathy Lewis, Clerk-Treasurer, Douglas County:**

I want to thank Assemblyman Frierson for the permissive language in the mock-up bill. I think that will address many of the concerns of the rural counties. I also want to address the amendments we put forth on behalf of Douglas County. I need to apologize to Assemblyman Frierson. It is not an excuse, but I am learning the process. I did not submit the amendments to him; I submitted them to the Committee. I will reach out to him. They are administrative in nature. There is some clarifying language in section 3. We wanted to add a statement. Right now, it says, "No additional polling places may be established pursuant to section 2 of this act after the publication . . . ." We wanted to add a statement in there: ". . . except in the event of an emergency, with approval from the Secretary of State's Office." This is because of what Mother Nature does to us.

Douglas County uses signature cards, not polling books, for early voting. We would like to keep having the voter sign a signature card. In sections 4 and 5, we made changes in that language to allow for signature cards instead of the signature on the electronic poll books.

**Vice Chair Araujo:**

Ms. Cutler, I might turn to Mr. Powers in Las Vegas to answer your question. Mr. Powers, have you had a chance to look over the mock-up and provide some clarity?

**Kevin Powers, Committee Counsel:**

The relevant section of the mock-up is on lines 34 and 35 of page 6. The proposed language in the mock-up is that "A county clerk may extend the period for early voting by personal appearance through the Sunday before election day." The mock-up provides for permissive action by the county clerk to extend early voting through the Sunday before Election Day. It does not require the county clerk to do that.

**Vice Chair Araujo:**

I hope that answers some of the concerns.



**Wayne Thorley:**

I neglected to mention that the City of Ely is also having an Election Day. If there are any registered voters hearing my voice in the City of Ely, make sure you get to the polls by 7 p.m.

**Vice Chair Araujo:**

I believe there is someone testifying in neutral in Las Vegas.

**Joseph P. Gloria, Registrar of Voters, Clark County:**

I want to thank Assemblyman Frierson for his willingness to discuss and address some of the concerns we had in Clark County. I am also happy to report that I have been in the field this morning to visit the vote centers in Henderson, Las Vegas, North Las Vegas, and Boulder City. I have heard nothing but positive comments from voters relating to the new access they have in the cities with vote centers, which provide more access to voters and greater ability for them to get out and exercise their right. Much of the permissive language that the bill sponsor discussed addresses most of our concerns. I just want to hit on a few areas that he did not mention.

In section 3, we were looking for an amendment to allow for an exception for the requirement to publish the polling places if all of the polling places located within a county can accommodate voters on Election Day ([Exhibit E](#)). This amendment makes a similar change to section 28 as it relates to cities and city clerks. We are already required to publish the polling places by *Nevada Revised Statutes* (NRS) 293.203, so it would be an unnecessary cost to advertise these sites. People can also take advantage of the sample ballot on our website since we would offer these at all sites.

In sections 6 and 17, Clark County was very happy to see permissive language put in place. We do not have as much of an issue in Clark County; however, we would be prepared to support that.

Regarding the permissive language in section 9, it is quite a task to put together the necessary staff to support that. Clark County has a strong history of being proactive in that type of support. We implemented the Spanish language in the early 2000s, which was before the federal mandate. We recognize that there is a new need in Clark County. I will be working with my management to try to identify the resources, so we can hire the necessary staff to make that language support possible.

In addition, this would be another amendment we would like to see implemented. By amending NRS 293.2735, clerks will have the option of providing a day of early voting to voters in a residential development exclusively for elderly persons. Often, residential developments for elderly persons do not have the space to provide proficient voting machines on Election Day to provide vote center access. Moreover, these developments often do not have parking available to support large numbers of voters. Therefore, this modification is a solution in which the opportunity to vote can be provided at the facilities during the early voting period. A similar amendment is made to NRS 293C.268.

According to section 16, providing more access to voters by adding two additional days of early voting will increase the voters' ability to vote at a time and place of their choice. As long as it does not logistically impede our ability to support vote centers on Election Day, we will be prepared to support it.

**Assemblyman Ohrenschall:**

I was seeking data from Henderson as to whether vote centers have increased turnout. Is that any data that you have access to? Do you know, statistically, whether that has bumped up voter participation in those elections?

**Joe Gloria:**

There was an initial increase in voting, but the municipal elections are driven more by what is on the ballot. I cannot say that we saw a large increase in participation in Henderson, but we know that we have received many compliments from voters who are very happy that they have all the choices on Election Day to exercise their right.

**Assemblyman Ohrenschall:**

Assemblyman Frierson and I recounted experiences we have almost every election on Election Day where voters had the ease and convenience of early voting. They then put it off. They say they will not go to the mall. They wait until Election Day. On Election Day, it is back to the old-fashioned system of a school or a community center. There is not the convenience of being able to go anywhere right after work or after dropping the kids off at daycare. Do you still get many calls on Election Day from confused people who think they might still have the convenience of the voting center-type situation during early voting but are now restricted to one voting location in the entire county?

**Joe Gloria:**

We receive many complaints on Election Day related to people who have not updated their information. As a result, they are at the wrong polling place on Election Day. They are forced to vote with a provisional ballot, and their federal races will count only if they are in the correct congressional district. What voting centers will provide to voters is there will be no location they can show up at where their ballot is not provided. Those provisional ballots will go away; voters will be able to vote a full ballot, and it will be counted.

**Vice Chair Araujo:**

Is there anyone else wanting to testify in neutral? In Las Vegas, Fawn Douglas wanted to testify in support, but got stuck in traffic.

**Fawn Douglas, Private Citizen, Las Vegas, Nevada:**

I wanted to mention that the Las Vegas Paiute Tribal Council is the voice of my tribe. I am speaking as a member only to give my testimony on voting and the importance of voting. There are members of my own family who did not vote in the past election because the process was really hard. My sister, my mother, and my sister's husband did not vote. My sister called me and did not know where she was supposed to vote. She was trying to find it. I told her to go to the website where everyone enters their address, and it tells them

which polling place to go to. She said that the website said her ballot was mailed to her. I told her to go to the place. She said they would just turn her away. These are only three stories of a hassle. My family lives on the reservation. This is outside of the City of Las Vegas. It was difficult to get through to someone on the web, by phone, and even physically to get to the place to vote. These are only a couple of members of my close family who have had issues trying to vote. They are not the only ones.

The Native American voice is being very much left out of the vote. I am hoping that for the next election, there will be more polling places available on the reservation, at Snow Mountain, or downtown. When I spoke with Chairman Benny Tso earlier, I was told that there was a polling place available at our tribal clinic, which is located inside the Health and Human Services building. It was a pop-up voting place, which was only there for a day. If other people even knew about that opportunity, I am sure they would have gone for it. Voting is very important, now more than ever. I feel that not only is the Native American voice being left out of the process, but minorities are in general. There is this big block where we are not getting enough opportunities for our voices to be heard. I just wanted to tell my personal story and my family's story about how hard it was to get the vote out. We need more opportunities to do so.

**Vice Chair Araujo:**

Before I close the hearing, I wanted to take a few seconds for Mr. Powers to address Assemblyman Daly's previous question that was asked when Assemblyman Frierson was presenting the bill.

**Kevin Powers:**

I believe Mr. Daly's question involved section 5, which is line 32 on page 3. When the voter appears at the voting center to vote, they are entitled to receive the appropriate ballot or ballots. I believe this language is intended at rural and small counties that may still use paper ballots. They may prepare one ballot for statewide offices, one ballot for federal offices, and a separate ballot for local precincts. It is possible to receive different paper ballots involving those different races at a vote center. If, however, any of the county clerks would like to clarify that or correct me, please open it up to them to correct the record if that is inaccurate.

[Vice Chair Araujo designated ([Exhibit F](#)), ([Exhibit G](#)), and ([Exhibit H](#)) as presented but not discussed. They will become part of the record.]

**Vice Chair Araujo:**

I am seeing nodding heads in Carson City, so I take that as the correct answer, Mr. Powers. With that, I will close the hearing on A.B. 272. I will now open the hearing on Assembly Bill 392, which will be presented by Assemblyman Oscarson. This is a proposal concerning the use of official stationery in political messages.

**Assembly Bill 392: Revises provisions concerning certain communications relating to elections. (BDR 23-85)**

**Assemblyman James Oscarson, Assembly District No. 36:**

I am here today to introduce Assembly Bill 392. It is a very short bill that concerns the use of official stationery for certain purposes related to elections. Let me give the Committee a little background information on the existing law and provisions of A.B. 392. I am talking about ethical behavior. The Nevada Ethics in Government Law can be found in *Nevada Revised Statutes* (NRS) Chapter 281A. It includes a code of ethical standards. *Nevada Revised Statutes* 281A.400 prohibits the improper use of governmental time, property, equipment, and other facilities. *Nevada Revised Statutes* 281A.520 further prohibits a public officer or employee from causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or a candidate.

It seems obvious that a public official or employee must not use anything that has an official symbol or representation of the state or local government for personal reasons. However, this may not be obvious everywhere in Nevada. During the last campaign cycle, I ran into many instances where candidates used the state seal for political advertising. Imagine my surprise when, speaking with the Office of the Secretary of State and the legal counsel at the Legislative Counsel Bureau (LCB), there was nothing that prohibited this. The use of the state seal for campaign and other advertising matters gives the impression that the information has been endorsed by a specific office of the State of Nevada. In order to remove the appearance of impropriety, we should clarify current law to prevent similar, misleading information for constituents across the Nevada.

Assembly Bill 392 specifically addresses the misuse of official stationery. I will walk the Committee through the bill, as it is short.

Section 1 of the bill amends the Ethics in Government Law to prohibit a public official or employee from using official stationery to express support for or opposition to any candidate or group of candidates, political action committee (PAC), political party, or ballot question. Official stationery is defined as any stationery that has any symbol, name, word, or mark of a state or local governmental entity, including the state seal. Section 2 of the bill amends Chapter 294A of NRS, which governs campaign practices. Section 2 requires that if a communication expresses support for or opposition to a candidate, and the communication includes the name and address of a government entity, the communication must include a disclosure that the publication was not published by the governmental entity. Governmental entity is defined and covers all agencies, such as boards, departments, and other units of government. In addition to printing, "publish" is defined as an act to include posting, broadcasting, mailing, or otherwise disseminating.

To summarize A.B. 392, it proposes that use of official stationery to influence an election is prohibited by the Nevada Ethics in Government Law, and campaigns must ensure that they clearly disclose that a communication bearing the name of a governmental entity was not

published by the governmental entity. Just for more information for the Committee, NRS 235.010 provides that misuse of The Great Seal of the State of Nevada is a misdemeanor.

**Assemblyman Elliot T. Anderson:**

I support the bill, but I have two questions. Is it not already unethical and prohibited to use official government resources for campaign purposes? I would interpret that to be stationery I get from the State. Are you saying this would prevent someone from even using the seal on a mailer that was different from official stationery? Is that what you are getting at?

**Assemblyman Oscarson:**

That is exactly correct. According to legal counsel, there is currently no law that prohibits it from being done. When speaking with the Legal Division of the LCB and others, there is nothing that prevents it. In section 1, subsection 1(e), "Official stationery" means stationery that contains any symbol, name, word or mark of a state or local governmental entity, including, without limitation, the Great Seal of the State of Nevada.

**Assemblyman Elliot T. Anderson:**

I would appreciate Mr. Powers weighing in on that. I remember that there were issues on the Clark County ballot campaigns using school district resources. I would consider our letterhead to be a government resource.

**Kevin Powers, Committee Counsel:**

Because we are in the area of communications, and there are First Amendment implications, I believe the advice the Legal Division of the LCB provided to Assemblyman Oscarson dealt with clarifying the law to ensure that official stationery could not be used for these particular purposes. It is possible that an argument could be made under certain circumstances that using official stationery would violate NRS 281A.520 during the specific period of time that that section applies to the election cycle. I think the goal is to ensure that, given the First Amendment nature of communications, the language of the statute is clear that it definitely applies to official stationery and clearly sets forth what the prohibition entails. I believe that is the goal of the legislation, and that it works in combination with the existing NRS 281A.520.

**Assemblyman Elliot T. Anderson:**

That clears it up. I agree that there is a strong argument that it could be void for vagueness if ever applied that way.

**Assemblyman Hansen:**

If I get a constituent who writes me a letter saying, Mr. Hansen, what is your position on ballot Question 1, I respond to that individual on my official letterhead as an assemblyman, and say, I am in opposition to ballot Question 1. Will that be a violation of the law if this passes?

**Assemblyman Oscarson:**

I do not believe that is the intent at all. Individuals who misrepresent, during a campaign or other periods, that the state is endorsing something when it, in fact, is not, is absolutely the intent of this bill. I believe that responding to one of your constituents, as many legislators do, on letterhead about an issue before us or that has been before us, as a representative of the state, does not violate that law. We can ask Mr. Powers to weigh in on that as well. I hate to keep going to legal counsel, but I think the intent of this is clear. I do not want to convolute what it is here for.

**Kevin Powers:**

The way the bill is drafted now, it is a broad, flat prohibition. It specifically says in section 1 that a public officer or employee shall not use official stationery to express support for or opposition to a ballot question. Because we are in an area fraught with First Amendment issues, I believe that it would be appropriate to consider a possible amendment to address Assemblyman Hansen's concern. The way the language reads right now, it seems to be a very broad prohibition on using official stationery to support or oppose any candidate, committee for political action, political party, committee sponsored by a political party, or ballot question. There may be concern with using letterhead to respond to constituents in that manner.

**Assemblyman Hansen:**

If an individual writes to me and asks if I am in opposition to Assemblyman Anderson's campaign against Assemblyman Araujo for Congress, I would be prohibited from responding on my letterhead that I support Candidate A or Candidate B. Is that also correct in the way this bill currently reads, Mr. Powers?

**Kevin Powers:**

Given the definition of official stationery, meaning stationery that contains any symbol, name, word, or mark of a state or local governmental entity, and most legislators' official stationery includes such marks, that is one possible interpretation of the proposed statutory language in this legislation.

**Assemblyman Hansen:**

That is my concern with the bill. The bottom line is that legislators should be able to use their official stationery to endorse or oppose a position on a ballot question or a candidate in office. Under this bill, legislators would be denied the opportunity to give their opinion on races and ballot questions. That is a stretch. It would deny us doing what we have done forever. When people ask us our opinions as official assemblymen, we have a right to respond as assemblymen. I think we need to be very careful on this bill. To me, it is really crossing not only a First Amendment line but is being designed in such a way that prevents legislators from sharing their opinions in races.

**Assemblywoman Monroe-Moreno:**

Are there any specific incidents that happened in the past that led you to create this legislation?

**Assemblyman Oscarson:**

Indeed, there were several. Things were being reported as being from certain governmental entities that targeted certain members who were running for election for this body. They insinuated that those entities had mailed out things based on previous things that had transpired in this Legislature. That is one reason, in addition to speaking with the general counsel and legislative folks in the building and realizing that doing that was not prohibited. We have to respond to our constituents in our official capacity. However, to go after each other using the state seal and using that information to pretend that it is from an entity when it is really not, is not only unethical, but it is just not right. I was not the only one. There were others who had the same issues. This issue came up for two other individuals in the 2013 Session when I was first elected. There has not been anything brought forward to address that. I fully intend to bring this bill through the Committee and through the body. It is that important to me. This is probably one of my priorities for the session. It is something that has to happen.

**Assemblywoman Monroe-Moreno:**

With the description that you just gave, if an elected official wanted to send a letter of support or denial of support, there would not be any objection to them using their campaign letterhead, just nothing with the official letterhead of their office that they are presently holding as an elected official. Is that correct?

**Assemblyman Oscarson:**

That is absolutely correct. That is the appropriate venue and the appropriate process to utilize. It is not prohibiting any one of us from responding to a constituent who asks questions, has concerns about particular legislation we are doing, or is concerned about an issue that is happening in the district or within the state.

**Assemblywoman Bilbray-Axelrod:**

I understand your intent, and I am shocked that this is not already in statute. Because my father served in the U.S. Congress, I know that it was very strict on what members of Congress could use their official stationery for. There is one thing I cannot get out of my head. It says "Official stationery," and then it has the definition of official stationery that says "without limitation, the Great Seal of the State of Nevada." I know that there are times when people will put the seal on their stationery. Would that be a misdemeanor based on this bill?

**Kevin Powers:**

The misdemeanor prohibition that Assemblyman Oscarson was referring to is already in existing law in NRS 235.010, so this bill does not create a misdemeanor prohibition. Section 1 would be enforced by the Commission on Ethics under the Nevada Ethics in Government Law. Any questions with regard to the use of the seal and a criminal penalty would go to the existing provisions of NRS 235.010. I would have to examine that provision more closely to answer Assemblywoman Bilbray-Axelrod's question.

**Assemblyman Daly:**

I will probably need some help with my question from legal counsel as well. In section 1, it applies to a public officer or employee; whereas, section 2 refers more to a communication that is published in support or opposition, which would apply to the general public. How far can you go on that prohibition? I remember from past years that an official document provided for an information request regarding a candidate had a state symbol on it. It had the address that showed it was a document from the state. It was used and published in a campaign mailer. If a person did that under this bill, they would have to include a disclaimer that the mailer is not from the official entity, when it clearly is an official document from them. It is just a reproduction of that document received from an information request. I am curious about the stretch of the prohibition against the person's right to communicate freely.

**Kevin Powers:**

The difference between section 1 and section 2 is that section 2 is not a prohibition; it is a disclosure requirement. If the communication meets this standard first, it has to be published in support of or in opposition to a candidate, and only a candidate. It is not as broad as section 1. It also has to include the name and address of a governmental entity. If it meets those two requirements, the communication must disclose in a clear and conspicuous manner that the communication was not published by the governmental entity.

In Assemblyman Daly's example, it is someone taking one document, putting it with another document, and sending it out as a communication. It is possible that that could be interpreted to require the disclosure that the overall communication was not published by a governmental entity, even though one part of the communication was an official governmental publication. Because that person is republishing it, this may be interpreted to require that person to have the disclosure. However, I want to emphasize that section 2 is not a prohibition; it is simply a disclosure requirement.

**Assemblyman Daly:**

I understand that. I just think it goes further into someone's freedom of speech rights. They are not publishing an official document. They are putting out a communication to try to bring to light an action, letter, or whatever was requested. I have concerns with section 2.

**Assemblyman Hansen:**

I have another question for Mr. Powers. If I write a letter on my letterhead to the Republican Central Committee saying that I am very grateful for their support of the Republican Party, the election cycle, and specifically on Bills 1, 2, and 3, it would actually be prohibited if this passes as written. If I sent that, and they sent it to other Republicans saying: Look, Assemblyman Hansen is very grateful for the support of the Republican Party and all the great work we did. That would be an absolute violation of law now under this law as written. Am I reading that correctly?



**Kevin Powers:**

With regard to section 1 and the use of official stationery, it is possible that a letter expressing support for a political party, such as the Republican Party, written on official legislative stationery or other official letterhead from a local government, could be interpreted under section 1 as being prohibited. If that same communication was in support or opposition of a candidate, and not just the letter from a political officer, it could fall within the disclosure requirements of section 2 under the scenario Assemblyman Hansen described, as long as it was referring to the legislator in their capacity as a candidate, and not as a public officer.

**Assemblyman Hansen:**

That also means that if one of my constituents writes to me about a bill, and I send that individual a letter expressing how I feel about supporting or opposing the bill, I could theoretically, because I am taking a clear position on an issue, candidates, political action, committees, ballot questions. If it is a specific ballot question, for example, and this passes as written, I could be in trouble for that if I use a Nevada Assembly letterhead. Is that correct?

**Kevin Powers:**

In that specific hypothetical, if you were just discussing a piece of legislation, that piece of legislation would not fall into any of the categories in section 1.

**Assemblyman Hansen:**

A ballot question would fall under that category. Is that correct?

**Kevin Powers:**

A ballot question would fall under that category. For example, a legislator uses their official stationery to express support for or opposition to Initiative Petition 1. Because that is a proposed ballot question, it could potentially fall within this prohibition since they are using official stationery to support or oppose that ballot question.

**Assemblyman Elliot T. Anderson:**

Before *Citizens United v. Federal Election Commission* 558 U.S. 310 (2010), there was interpreted to be a "magic words" requirement for a similar statutory scheme in terms of violating campaign finance laws. When you say support or opposition, would there be some sort of "magic words" requirement? Let us say a legislator discussed official legislative action on a bill. I am trying to parcel that out because, when a legislator is expressing opposition or support of a candidate or a group, generally, it is saying vote one way or the other. Just talking about what happened in the Legislature would not be prohibited under this or in the applicable context for, say, a city council member.

**Kevin Powers:**

The Committee has to focus on paragraph (a) of subsection 1 of section 1 that talks about the categories that this refers to, which are a candidate or a group of candidates, a committee for political action, a political party, a committee sponsored by a political party, or—the key

here—a ballot question. These categories do not involve pieces of legislation, so using official stationery to support or oppose a particular piece of legislation would not fall into this prohibition. However, if that particular item was a ballot question, which takes various forms, it would fall under this prohibition. For example, a ballot question is a proposed constitutional amendment or an initiative petition that goes before the Legislature. It also deals with local government initiative petitions and ballot questions as well. The term ballot question here is used for any question on the ballot. In fact, it would cover advisory ballot questions as well. This bill as written does not apply to opposition or support for pieces of legislation except for ballot questions. That is the area Assemblyman Hansen was asking about.

**Assemblyman Elliot T. Anderson:**

I think there might be some necessity to clarify that. If a legislator is officially discussing something before the Legislature, I think that is a gray area that ought to be fixed. Legislators need to be able to discuss things with constituents if they write about, say, an initiative petition before the Legislature. Out of an abundance of caution, I think commenting about a specific official action would be a good addition to tie up those loose ends. I think everyone is with you. I am not exactly sure how you would do it, but I think there is a gray area that we need to try to get our heads around.

**Assemblyman Oscarson:**

I am not opposed to that at all. I understand the challenge. Hopefully, we will be able to discuss how to clean it up and make it happen with the bill's drafter. My commitment to others and those that discussed this last session was that we were going to fix it, so there was no misinterpretation that a state entity or agency was going after a specific candidate or individual. It boils down to this.

Some of the things that transpired during the last election cycle were completely unethical. There was nothing we could do about it. My goals are to make sure that does not happen again and to make sure that there is fair and honest discourse and fair, honest, and truthful advertising about what is happening. It was not just me; there were others who were impacted. I took this on myself, and I believe it is an important piece to the process to ensure that constituents are told the truth when they are making a choice based on honest and fair information they have received, however they might have received it. That absolutely did not happen in the last election cycle.

**Assemblyman Hansen:**

I just wanted to point out that if these things were unethical, they would go to the Ethics Commission. I am intimately aware of some of these, and what this is attempting to do is shut down legislators' ability to express their opinions in elections. That is what it boils down to. This is not about governmental entities. It is about legislators using their own letterhead to say they support Candidate A, do not support Candidate B, or to say Candidate A voted on this thing but said he was going to vote a different way, and therefore, the legislator does not support that candidate. This is making misdemeanors out of ordinary things and the use of official letterhead.

**Assemblyman Oscarson:**

The penalty is already in statute. I am not putting that in statute; it is already there. Assemblyman Hansen, you are correct. You are intimately involved. Since you asked for it, I will give it to you. You were the biggest offender of this. You told untruths, and you manipulated the system. I am not going to let that happen again.

**Assemblyman Hansen:**

I said nothing untrue. If that were true, the Ethics Commission would be the place to take that up.

**Vice Chair Araujo:**

We are going to move on. Is there anyone wishing to testify in support? [There was no one.] Is there anyone wishing to testify in opposition? [There was no one.] Is there anyone wishing to testify in neutral?

**Yvonne M. Nevarez-Goodson, Executive Director, Commission on Ethics:**

I thought I might offer some context. I was not aware of this bill before it was introduced, but based on some of the questions I heard today, I might be able to offer some context into the issues that confront the Commission on Ethics that relate to use of government letterhead. The bill is correct in its digest in the explanation of existing law. Under existing law, the Ethics Commission is often asked to interpret whether the use of official government letterhead constitutes the use of government resources, and whether the use of those resources infringes on a significant personal interest.

The timing is somewhat ironic with today's bill because the Commission is scheduled to hear this very case in its April meeting. The case is about whether the use of someone's official letterhead to endorse a candidate constitutes a significant personal interest for which the use of the letterhead was inappropriate. The Commission is going to be asked to answer those two questions, in particular, whether their letterhead constitutes a government resource, and whether an endorsement of a candidate constitutes a significant personal interest.

The Commission has confronted this issue in the past and has issued former opinions saying campaigns constitute personal interest. While the Commission does not prohibit or have any opinion about whether it is appropriate for a public officer to endorse a particular candidate or ballot question, it is the use of government resources in an effort to do so. This legislation is certainly broader than the provision the Commission is currently asked to interpret. This would be an outright prohibition; whereas, under the current law, the Commission is asked to interpret those two questions under NRS 281A.400, subsection 7 for public officers and public employees and subsection 8 with regard to state legislators. I wanted to offer that context for the Committee's consideration.

**Vice Chair Araujo:**

Does Assemblyman Oscarson want to say any parting words?

**Assemblyman Oscarson:**

I fully intend to listen to some of the input I heard from the Committee to fine-tune it and dial it in a little better. I will work with the Legal Division of the LCB to do that.

**Vice Chair Araujo:**

I will now close the hearing on Assembly Bill 392. I will now open the hearing on Assembly Bill 403, which will be presented by Assemblyman Daly. This is a proposal to create the Governmental Oversight and Accountability Subcommittee of the Legislative Commission.

**Assembly Bill 403: Revises various provisions relating to governmental administration.  
(BDR 17-573)**

**Assemblyman Skip Daly, Assembly District No. 31:**

Assembly Bill 403 has two parts. I will go through the first half, take questions, and then go through the second half. Sections 1 through 8 cover the first portion. As one of the three co-equal branches of government, the Legislative Branch has an inherent authority to investigate various government agencies, make findings, and make legislative recommendations. Sections 1 through 8 establish the Governmental Oversight and Accountability Subcommittee of the Legislative Commission. The Subcommittee would fall under the authority of the Legislative Commission. It will be able to carry out the existing powers of the Legislative Branch of government as provided in *Nevada Revised Statutes* (NRS) 232B.010 through NRS 232B.100 and portions of NRS 218E.175, as stated in section 7.

Section 3 defines the governmental agency for the purpose of the Governmental Oversight and Accountability Subcommittee. The definition of governmental agency is narrower than the definition of an agency in NRS 232B.010. Specifically, the Governmental Oversight and Accountability Subcommittee excludes the state constitutional officers, justices and judges and the Judicial Branch, and directly elected council, boards, and commissions. However, the Legislative Commission would retain the ability to review any public agency under its more broad authority in existing statute.

In 2013, I had a similar bill to this. It made it all the way through the Legislature and went to the Governor. He vetoed it. Part of that was because it included some elected boards and officials. I did two things differently this time. I made the size of the subcommittee smaller. It was going to have ten members; now it has only six members—three from each house. I took out the elected boards. If it is a directly elected city council, the Subcommittee would not be able to call them in or conduct an investigation, but the Legislative Commission still could. Section 5 creates the Subcommittee. It is appointed by the Legislative Commission from the recommendations of the Senate Majority Leader and the Speaker of the Assembly. Each house shall appoint three, one of which must be from the minority party. Section 6 speaks to the meeting times, quorum requirements, member compensation, and the filling of vacancies.

Section 7 delegates the existing powers to review and make recommendations regarding the performance of governmental agencies to the oversight of the Governmental Oversight and Accountability Subcommittee. Section 8 outlines the procedure for conducting hearings, calling witnesses, taking depositions, issuing subpoenas, the production of records, and issuing court orders if necessary. This is all similar to what this Committee and the Legislative Commission would have, as it puts it in with the Subcommittee that is already in the other sections of law.

**Assemblyman Elliot T. Anderson:**

As for the Subcommittee to Review Regulations now, is there an ability for the full Legislative Commission to take that in? I get concerned because of the delicate balance the Commission has to ensure that there is equal consideration. Democrats were in the minority once and could be back there again. Is there some ability for the Legislative Commission to review the Subcommittee's actions?

**Assemblyman Daly:**

There is some ability for the Legislative Commission to review the Subcommittee's actions. In fact, the schedule of whether they can have as many meetings as they can and the money to cover the cost of those meetings are determined by the Legislative Commission. As with all of the subcommittees, it will report to the Legislative Commission with recommendations. The Subcommittee to Review Regulations is in the second half of the bill. The Legislative Commission appoints that subcommittee and has purview over it, like all the other subcommittees.

**Assemblyman Hansen:**

I have served on the Legislative Commission for three sessions. The Subcommittee to Review Regulations can bypass the entire Commission. It is made up of two members of the majority party and a single member of the minority party. Will this be impacted at all? If I am Chair of the Legislative Commission, can I direct something from this through that, so it does not actually go before the 12-member Commission?

**Assemblyman Daly:**

This bill is not intended to do that. I do not believe that this subcommittee would be able to do that. The second half of the bill talks about that. I propose to abolish the Subcommittee to Review Regulations. The only ones that would be able to review a regulation and either adopt it or not would be the Legislative Commission.

**Assemblyman Hansen:**

Does the bill change the composition of the Legislative Commission? Does it remain six and six?

**Assemblyman Daly:**

That is correct.

**Vice Chair Araujo:**

Are there any further questions? [There were none.]

**Assemblyman Daly:**

Article 3, Section 2, Subsection 2 of the *Nevada Constitution* states in relative part, "If the legislature authorizes the adoption of regulations by an executive agency which bind persons outside the agency, the legislature may provide by law . . . ." The main powers are that they have the right to review, suspend, and nullify these regulations.

Currently, the only thing the Legislature has been provided by law is to review. The other two provisions are in the *Nevada Constitution*, but there is no law that says they can do them. That is what this bill is about. Those provisions were amended in the *Nevada Constitution* in 1996. There was legislation in 1993 that was brought forward by former Senator Ann O'Connell when the Legislature figured out that the regulations that were being put in had no oversight or review by the Legislature.

It did not pass in 1993. I do not know exactly what happened. They brought the same bill forward, and it became a ballot question in 1995. It passed, and it amended the *Nevada Constitution* in 1996. After that, they passed legislation for review by the Legislative Commission. That is in NRS Chapter 233B, which is where this bill makes many amendments.

I do not see this provision as partisan at all. It does not change how people are appointed to the Legislative Commission. There are still six members from each house and three from each party unless one party has a two-thirds majority, in which case that party would get a fourth member from that house. None of that changes. The Legislative Commission is designed to be bipartisan. It is made up of six Democrats and six Republicans. I can remember one exception. That was when there were 28 Democratic members in the Assembly, and they got a fourth person for one interim session. That is the gist of it. I see this as empowering the Legislature. I will get into some of the reasons I think some of this is needed. I will go through quickly how the regulations start.

In order for an agency in the Executive Branch to be able to promulgate a regulation, they have to be given the authority to enact the regulation by the Legislature. The Legislature gives that authority routinely. It is seen in all kinds of bills, because they need to have that authority to flesh out some of the actual procedures. After that, the Executive Branch agencies decide when they are going to promulgate a regulation; what language will be in the regulation; they are required to have a workshop and take comments from various people. After they get the comments, they are required to have a hearing. They do not have to take any recommendations. They can then publish and adopt the regulation that they believe is best.

They take input a lot of the time; however, sometimes, they do not. I have seen it both ways in regulation processes that I have participated in. They have to submit the approved or adopted regulation to the Legislative Counsel Bureau (LCB). They put it into

legal standards. The LCB cannot change, amend, or do anything to change the intent of the regulation. It has to be exactly how it was adopted by the agency. The Legislative Commission gets one time to review that and either approve or reject it. It would take seven votes, a majority, from the Legislative Commission to approve it. Once that is approved, there is no mechanism or process to require anyone to go back and review it again to make sure it is still being administered the way they said that it would be when they presented it to the Legislative Commission, or the way they built the record when they took testimony from interested parties in the workshop and hearing.

Administrations and administrators from various agencies change. I have seen regulations that everyone thought they understood and were interpreted and applied a certain way for many years suddenly change under a new director. In those circumstances, this bill may give the Legislative Commission the right to say that the regulation is going outside of what the agency told the Legislative Commission the regulation was for and how it was going to be implemented if there was a record at the Legislative Commission. They frequently are approved with no testimony. There will almost always be testimony on what the intent was from the workshop and the hearing.

There would be a chance to go back and review it. If the agency changed what the Legislature intended, the Legislature would be able to come back and either suspend the regulation and say what went awry or nullify it and make them start over. I see it as oversight of the Legislature to exercise their inherent powers to make sure that the legislative intent and regulations are adhered to.

As Assemblyman Hansen can attest to, having served on the Legislative Commission for three sessions, this session we are going to see 2,000 bills. We may pass 600 or 700. When I served on the Legislative Commission in one interim, we were passing 40 to 60 regulations in the four to six meetings during the interim, which are laws when passed. There will be probably a third of the number of bills through the Legislative Commission. I think we need to have this extra oversight in the end if the intentions of the Legislature are not being subsequently followed.

I will go through the sections specifically. Section 10 of A.B. 403 provides by law for the suspension and nullification of a regulation upon making certain findings. Subsection 2 of section 10 provides for notice and reason for the suspension or nullification to the affected agency. Subsection 3 of section 10 states that any decision of the Legislative Commission regarding the suspension or nullification is not subject to judicial review. I see that as a separation of powers issue.

Subsection 4 of section 10 allows the Legislative Commission to determine if an agency rule, directive, or standard is or is not a regulation under NRS 233B.038, and any regulation that is nullified by the Legislative Commission shall be removed from the *Nevada Administrative Code* (NAC) and any agency publications. That section means that if

an agency puts forward a regulation believed to meet the definition of a regulation, they have to go to court. I think that is something that should be reviewed and determined by the Legislature and the Legislative Commission. That is why that is there.

Section 11 allows for the adoption of regulations by the Legislative Commission to carry out the provisions in the measure. Some things need to be fleshed out in regulation as well. Section 12 makes conforming changes to allow, not only review, but suspension and nullification. Section 13, subsection 2(m) deletes an exemption to a definition of a regulation that is inconsistent with subsection 1(d) of the definitions of a regulation. This bill clarifies that inconsistency. Section 14 changes the date for the ratification for previously adopted regulations. Everything that has been passed by February 6 of this year is ratified, but all of it would be subject to the future review by the Legislative Commission. Section 15 clarifies the law to protect actual practice.

Assembly Bill 403 proposes to repeal the Subcommittee to Review Regulations as well. During the last two interims, the Subcommittee has been used in a highly partisan way by both parties to approve regulations that could not get the bipartisan support of the whole Legislative Commission. These things are important. There was one on Education Savings Accounts (ESAs) that was passed this last interim. There was one that had a fee increase that passed the previous interim. Different parties were in charge. They circumvented the bipartisan Legislative Commission, put it through a subcommittee, and bypassed party lines. I do not think that is effective for the scheme in place for the review of this. If a regulation cannot get bipartisan support, there is a flaw. It goes back to the drawing board. Those agencies can come back with something that can be passed.

Sections 16, 19, 21, 22, 23, 24, 27, and 29 make conforming changes to repeal the Subcommittee to Review Regulations. Section 17 removes ambiguous language. It says "for substantial regulations." Every regulation is a substantial regulation, so the bill removes that ambiguous language. Section 18 clarifies legislative intent. Regulations must be reviewed and approved by the Legislative Commission before they have any effect. There is a provision that dates back to when the Legislative Commission came into being that says people cannot challenge a regulation prior to a certain date. Regulations were adopted before the Legislative Commission started to have the ability to review, but the provision does not clearly state that challenges can be made for reasons other than it did not go through this procedure. This just makes clear that a regulation is not determined to be a regulation unless it is adopted or reviewed and approved by the Legislative Commission.

Section 20 updates and modernizes the procedures to publish the administrative regulations. It will hopefully save the state some dollars along the way as well. That updates it and allows them to put it on the Internet. It does not require up to ten publications a year. Section 25 requires an agency to provide a copy of the written statement of an emergency regulation endorsed by the Governor when adopting emergency regulations. If the agency did an emergency regulation before, it said they had to go to the Governor and get an endorsement. This section just says they have to provide that the Governor actually endorsed the regulation when they turn it in to the Office of the Secretary of State.



Section 26 contains conforming language regarding the authority of the Legislative Commission to suspend or nullify regulations. Section 28 adds clarity that the courts do not have jurisdiction to limit the authority of the Legislative Commission to suspend or nullify. There are other portions of NRS Chapter 233B that would probably go to the court and contest the cases. I wanted to put that language in there to clarify that. If the Legislative Commission suspends or nullifies, it is not subject to judicial review.

Section 30 makes the bill effective July 1, 2017. I will stand for any questions at this point. I do not see this as a partisan issue. I see it as a Legislative Branch issue in order to have the proper oversight and accountability needed when agencies adopt regulations that may then exceed or change the intent after they get their regulation approved.

**Vice Chair Araujo:**

Are there any questions from the Committee? Seeing none, I will open it up for testimony in support. [There was no one.] Is there anyone in opposition? [There was no one.] Is there anyone testifying in the neutral position?

**Ray Bacon, representing Nevada Manufacturers Association:**

I am one of those few people who has been around so long that I remember when this thing was initially passed. The primary reason it was initially passed was that the agencies were passing provisions that had been disapproved by the Legislature. The agencies lost it in the legislative battle, so they added it by regulation, which was unethical. About the same time, there was also a requirement for a business impact statement, which we made an effort later on to change. I wish I could remember the language, but I cannot. It was not only the business but the entity impact statement. It was either the governmental entity that was being impacted or the business impact statement. I would love to tell you that every agency has done a wonderful job on that. That would be less than honest.

Nine times out of ten, when someone looks at the business impact statement, it just says that there is no significant impact on the business, and they have not talked to anyone. It is an interpretation that is made by the agency that is pushing the thing. In general, what Assemblyman Daly is trying to do is exactly what should happen. The reason it was created as a separate committee in the first place was that it became a workload issue. There was not enough time in the Legislative Commission to deal with these things.

Most of the people who were on the initial versions of the separate Subcommittee to Review Regulations were attorneys. They were looking to find out if the regulation was consistent with what was in the statute that was passed. Was it attempting to expand what was in the statute? From what the Legislature passed, was it trying to expand the rule they were looking for or was it in some way constraining? That is the history of the thing.

I think what he is trying to do, in general, is a step in the right direction. The only thing I would suggest is to look at beefing up the business or entity impact statement, so the agencies actually talk to the people who are going to be impacted. They do not currently do that well at all. The second thing is to look at what the workload impact is for the

Legislative Commission and if it is fair to burden them with it. Some of those agendas are pages long. Those are my two comments. There is a workload issue, and the business impact piece never worked.

**Assemblyman Hansen:**

One of the main things we wanted is the small business impact statement, which is built into it. Two sessions ago, Assembly Bill 252 of the 77th Session was cosponsored by former Assemblywoman Marilyn Kirkpatrick and me. That is where we came up with the language requiring a clear and concise statement. It has been extremely helpful for those of us on the Legislative Commission. One can see all the regulations summarized in a paragraph. Is there anything we can add that you think would have a meaningful impact on the regulatory body's efforts to work with the business community? I have had the same frustration. Every single regulation I saw almost never had any comment. It would say, "Does this impact business?" "No, it does not." It was so consistent. Is there anything we can do to put some teeth in that?

**Ray Bacon:**

I would say that it would not be unreasonable to say that as they bring the package forward for review, that they list who they actually talked to. No is an easy answer. It may mean no, they did not talk to anyone; or it may mean no, there were no comments. In the years since this was passed, I have been contacted twice.

**Assemblyman Hansen:**

You might want to take that up with the bill's sponsor. It popped into my head after serving on the Legislative Commission all those times and watching that. I know the Speaker of the Assembly at the time, Marilyn Kirkpatrick, was really concerned about it too because they have all these regulations passed that somehow, magically, never have any financial impact on any business in the entire state.

**Ray Bacon:**

I had those discussions with her, and I will leave her comments out.

**Vice Chair Araujo:**

Does Assemblyman Daly have any parting words?

**Assemblyman Daly:**

I appreciate Mr. Bacon's comments, but I was not trying to address those secondary or other issues in this bill. My experience was the Legislative Commission was not delegating any of the workload on reviewing the regulations. That body took it on. The only time they did was when it was controversial. I do not think it is a workload issue. I believe the process would be strengthened if there is not that option. There needs to be bipartisan support to pass that stuff. I think it will make it a stronger process.

**Vice Chair Araujo:**

I will now close the hearing on A.B. 403. Before I open the next hearing, I am going to release the members of the Assembly Committee on Transportation.

**Kevin Powers:**

I am going to have to release myself as well. I have to get to the airport.

**Vice Chair Araujo:**

I will now open the hearing on Assembly Concurrent Resolution 8. This is a proposal from the Legislative Committee on Education to create an interim study concerning all the reports that are required to be completed by the public schools in Nevada. As a way of introduction, I served as a member on the Legislative Committee on Education during this past interim. One of our many discussion topics was the dozens of different reports required by Nevada's statutes. We adopted a recommendation for a study in the next interim that is directed specifically to evaluating these education reports. The suggestion for the interim study was made by Ray Bacon with the Nevada Manufacturers Association. Mr. Bacon has been involved in efforts to improve public education in the state for many years. He is here today to explain the purpose of the proposed interim committee.

**Assembly Concurrent Resolution 8: Directs the Legislative Commission to create an interim study concerning reports relating to public education. (BDR R-337)**

**Ray Bacon, representing Nevada Manufacturers Association:**

If the Committee takes a look at what happens in the business community, it has done an amazing job at modernizing the way it deals with data-type issues. Looking at inventory at an operation like a WalMart, they never run out of almost anything. That is because the data systems are fed automatically. The orders are placed automatically, so things arrive within 24 hours after the inventory goes down. Nevada does not do a good job of that in government. Part of it is the situation where the citizens of Nevada have not done a good job of keeping their computer systems updated and current. In many cases, they are dealing with computer systems that may be ten years old. No one has a ten-year-old computer in their houses that is used. The issue to look at may be something that can be handled by the interim Committee on Education, but I think it is a bigger issue than that. If this one starts and does a good job, this becomes the impetus for the state to take a serious look at how it manages its data, and how it improves its data systems, which impacts government across the board.

Let me expand into the education field. This is especially important for those who live in Clark County. The Clark County School District is about to go through reorganization. We are going to go from one data set, which has covered the entire county, to a new data set that will look at all the subentities. If they in any way, shape, or form do that to the point where the data comes out looking different, John Q. Public and the parents down there will have absolutely no way of comparing what is going on. They will have a nightmare. The same is even true at this stage of the game from a state level. If you try to compare the Washoe County data with the Clark County data or the data from Douglas County to the data from Elko County, many of the things are very well done. Others are inconsistently done.

The other thing going on at the same time is that Nevada has gone from the Smarter Balanced Assessment Consortium (SBAC) test in the last year to the End Of Course (EOC) test. We keep changing the data set. I would love to say that every parent understands exactly what we have done, can explain that easily, and really knows what the data set means. That would not be true. We have made it difficult for parents, especially those who come from limited English-speaking backgrounds or poverty backgrounds. We have made it difficult for them to understand and see what is going on. Those people need a consistent, dependable database the most.

Simultaneously, look at some of the things that are going on. People talk about the drive for college-bound students. They talk about the number of kids who go to college. Nevada's numbers are not pleasing. Simultaneously, there are things in that database that Nevada does not do a good job with. Nevada does not do a good job of keeping track of the number of kids who leave the state to go to college. According to education studies, most of the people who leave the state to go to college do not come back. They are the best and brightest, and Nevada loses them to out-of-state colleges. Nevada does not do a good job of keeping track of what the completion rates are on a consistent basis between Nevada's colleges and community colleges. Those are all things that need a consistent measure, so parents can compare those things. Nevada's Career and Technology Education (CTE) schools are doing the best on an overall basis as far as performance goes. They have a 95 to 98 percent graduation rate. Around 80 percent of their students go on to some level of postsecondary education. Consequently, there are some good performance numbers out there, and they are not reported consistently.

This resolution is asking the Legislature to take a serious look at getting the database to the point where there is a state standard. This cannot be implemented immediately because the cost would be astronomical. This bill will do something over time that says, This is what we are looking at, and this is the way we want the data. It can then evolve into that thing, so Nevada winds up with something wherein parents, students, and legislators truly have the data needed to compare things five or ten years from now. I think there is a lot of money to be saved. There are many people inputting data. We have a tremendous amount of different reports coming out. At some point in the future, those reports will look the same, the data will be the same, and the definitions will be the same. A lot of that is already fixed in the student data system, but it is not all fixed.

**Assemblyman Hansen:**

I totally support the idea. Obviously, it is another study. We study everything half to death around here. I have been watching this educational data issue because we want to find out what is effective and what is not. The biggest problem I see is that the data questionnaires are constantly changing on the federal and state levels, so it is almost impossible to chart something's effectiveness over more than a few years. Even if this is put in place, how do

you ask the same questions consistently over a period of time about the effectiveness of third grade reading levels we put into law and things like that? That is what I was trying to find and could not find it.

I am going back to former Governor Kenny Guinn, and all the stuff he promised. He was the education Governor. He talked about all those reforms, and I would like to see the data that should have been collected. What works? It does not exist. I recently had Todd Butterworth with the Legislative Counsel Bureau (LCB) doing all these reports for me. He said he was sorry and could not do any more for me because we had to pay X amount of dollars to the research thing, and it has been dropped from the budget. I have about eight years of really great data as to how effective Nevada's programs are, but now I cannot continue beyond that. I wonder, do you have any ideas as to how the state can overcome a difficulty like that, so data banks actually have relevancy over time?

**Ray Bacon:**

The LCB puts out the *Nevada Education Data Book*. It is a good book, and it does a very good job on the current situation. I think there are a couple of things we can do. When looking at these reports, in most cases, there is not a web address at the bottom of each one of these charts, so you can find it again. I think that is something that is a consistent policy. We should have a reference at the end of each chart and data book, locally and statewide, so you can find them. That would help a lot. That is a relatively simple thing. It is there; it is just not visible that it is there.

The second thing is having the chart and reference when someone goes through and changes the data elements. On the bottom of it, it could say, older data, look at a separate website. The data will not match, but the data will be reasonably close and at least gives some reasonable basis for comparison. When schools go from the SBAC test to the EOC test, people will be able to see the transition and what is going on with the transition. Is it a perfect system? It is not because federal officials keep changing the rules because we changed the rule at the state level. Nevada will never wind up with totally consistent data, but I think it can get to the point where it has representative, traceable data, not necessarily consistent data.

**Vice Chair Araujo:**

Are there any further questions in the Committee? Seeing none, we will move on to testimony in support.

**Justin Harrison, Director, Government Affairs, Las Vegas Metro Chamber of Commerce:**

We are here today in support. The Las Vegas Metro Chamber of Commerce has been a long-time supporter of accountability measures for education. We believe that it is a worthwhile project for the Legislative Commission to study what has been done as far as reforms and accountability measures that have recently been made in education. As we

follow through with those questions and keep and track that data, we can draw some good conclusions for not only Nevada's students, but also for those who will be part of the future workforce of Nevada.

**Vice Chair Araujo:**

I do not see any questions from the Committee. Is there anyone else wishing to testify in support? [There was no one.] Is there anyone in opposition? [There was no one.] Is there anyone wanting to testify in neutral? Seeing none, I will close the hearing on A.C.R. 8. Is there anyone wanting to speak under public comment? [There was no one.] This meeting is adjourned [at 4:02 p.m.].

RESPECTFULLY SUBMITTED:

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Julianne King  
Committee Secretary

APPROVED BY:

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Assemblyman Nelson Araujo, Vice Chair

DATE: \_\_\_\_\_

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a mock-up of a proposed amendment to Assembly Bill 272, presented by Assemblyman Jason Frierson, Assembly District No. 8.

[Exhibit D](#) is a proposed amendment to Assembly Bill 272, submitted by Kathy Lewis, Clerk-Treasurer, Douglas County.

[Exhibit E](#) is a proposed amendment to Assembly Bill 272, submitted by Les Lee Shell, Director, Office of Risk Management, Clark County; and presented by Joseph P. Gloria, Registrar of Voters, Clark County.

[Exhibit F](#) is a letter dated April 2, 2017, in support of Assembly Bill 272 to members of the Assembly Committee on Legislative Operations and Elections, submitted by Linda Gillaspy, Private Citizen, Reno, Nevada.

[Exhibit G](#) is a document titled "What is the Difference Between a Voting System and a Voter Registration System?" by the Nevada Association of County Clerks and Election Officials.

[Exhibit H](#) is a document titled "How Will Nevada Comply With the Implementation of Vote Centers? The Use of Electronic Pollbooks and Laptop Computers as Electronic Rosters," from the Nevada Association of County Clerks and Election Officials.