

**MINUTES OF THE  
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-ninth Session  
May 10, 2017**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Nicole J. Cannizzaro at 3:41 p.m. on Wednesday, May 10, 2017, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Nicole J. Cannizzaro, Chair  
Senator Tick Segerblom, Vice Chair  
Senator Kelvin Atkinson  
Senator James A. Settelmeyer  
Senator Heidi S. Gansert

**GUEST LEGISLATORS PRESENT:**

Assemblyman Skip Daly, Assembly District No. 31  
Assemblyman Jason Frierson, Assembly District No. 8  
Assemblywoman Amber Joiner, Assembly District No. 24  
Assemblyman James Oscarson, Assembly District No. 36

**STAFF MEMBERS PRESENT:**

Michael Stewart, Policy Analyst  
Kevin Powers, Counsel  
Janae Johnson, Committee Secretary

**OTHERS PRESENT:**

Joe Gloria, Registrar of Voters, Clark County  
Vida Lin, Asian Community Development Council  
Evan Louie, OCA Las Vegas  
Alanna Bondy, American Civil Liberties Union of Nevada  
Stacey Shinn, Progressive Leadership Alliance of Nevada

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John Ocegüera, Reno-Sparks Indian Colony  
Fawn Douglas  
Sue Merriwether, Clerk-Recorder, Carson City  
Wayne Thorley, Deputy for Elections, Office of the Secretary of State  
Jesse Wadhams, Las Vegas Metro Chamber of Commerce  
Misty Grimmer, Nevada State Contractors Board  
Joanna Jacob, Nevada Contractors Association  
Alexis Motarex, The Associated General Contractors of America  
Michael Hillerby, State Board of Pharmacy; State Board of Nursing  
Neena Laxalt  
Jon Sasser, Legal Aid Center of Southern Nevada; Washoe Legal Services  
Barry Gold, AARP  
Kimberly Mull, Nevada Coalition to End Domestic Sexual Violence  
Rita Weisshaar, Nevada Alliance for Retired Americans

CHAIR CANNIZZARO:

We will open the hearing with Assembly Bill (A.B.) 272.

**ASSEMBLY BILL 272 (2nd Reprint)**: Revises provisions relating to elections.  
(BDR 24-851)

ASSEMBLYMAN JASON FRIERSON (Assembly District No. 8):

Assembly Bill 272 represents my effort, in the simplest terms, to encourage as many people who are eligible and interested in voting to be able to vote. We should be encouraging as many eligible voters who are interested in voting to do so. We need to do it in a way that is convenient and easy. When I first ran for the Legislature in my district, there were eight senior mobile home parks. Many of those senior mobile home parks had polling places on site.

As the Las Vegas Valley continues to grow, the polling locations change. It became extremely confusing for many who were voting in the same place for 10 to 20 years to then figure out where to go to vote. They get those cards in the mail like everyone else, and many of us do not look at them. On Election Day, we show up at the wrong place. If we show up at the wrong place on Election Day at 6:00 p.m., we might be out of luck. For those of us who may have transportation issues, we may not be able to get transportation to an alternate site. It makes it difficult and discourages those folks from participating in the electoral process.

This effort in A.B. 272 reflects work with the registrars in the urban and rural areas around the State. At the end of the day, we do not want to overly burden any particular registrar, city or county clerk. We want to enable them to do a job that is flexible but inclusive. The original bill had more mandatory language. The bill at this point reflects a permissive nature, and I think it accommodates all the needs of the stakeholders.

Section 2 allows a county clerk to establish one or more polling places in the county where any person is entitled to vote by personal appearance and can do so on the day of the primary or general election. Section 3 allows the county clerk to publish the locations of the polling places. Sections 27 through 30 of the bill correspond to city clerks and local governments and does the same thing.

Sections 6 and 31 are in response to legal concerns about voting on Indian reservations. It is designed to address those concerns and requires upon request that a polling place can be located on an Indian reservation or colony. It is at their request and the threshold size of a reservation or colony is not under 500 people. It was designed to address legal challenges with respect to our Native-American communities being able to participate in the electoral process.

Section 7 requires a roster change, and the Secretary of State representatives can address those concerns. Section 9 allows the voting materials to be presented in alternate languages. These include particular Chinese base languages, which in the original bill were named Mandarin and Cantonese. The challenge here is that federal law requires that for any language, once the population reaches 10,000, they are entitled to have ballot materials printed in their language. However, there being so many different dialects in the Chinese language set, each of them was broken down. Rather than try to name each of them, the bill references Chinese base languages and authorizes the local government to print ballot materials in those languages. We are trying to get ahead of the game so that we can accommodate as many active and eligible voters who want to vote.

Sections 16 and 38 deal with the permanent polling places. It allows for a period of early voting to last until the Sunday before Election Day. Oftentimes, the early voting period has one weekend. If folks do not get out to vote that weekend, there is often the assumption that the following weekend they will go ahead and vote. That Friday is the last day, and then those folks have to wait

until Tuesday to cast their ballots. This again is not mandatory and is permissive. It allows counties that are able to accommodate that requirement to be able to do it. This took into account registrars in certain counties who were unable to move the machines in time for the Tuesday election. One of the reasons why they shut down during the weekend was to move and set up. The bill allows them to keep voting open during that weekend, but it does not mandate it. Sections 17 and 19 address that under certain circumstances, the county clerk is able to establish at least one temporary place for early voting within the boundaries of an Indian reservation or colony.

This bill represents a collective effort to enable as many resources as we have to encourage folks to vote. It is not a party issue, region issue or an age issue. We attempted to take into account the concerns of both urban and rural stakeholders to enable them to encourage as many people as possible to vote regardless of their background and how they might vote. We are in the business of encouraging an elector to vote. We have a responsibility to make sure voting is easy for them to understand and convenient. We need something that is encouraging and not discouraging.

JOE GLORIA (Registrar of Voters, Clark County):

I support A.B. 272. Based on the amendments and the work we have done with the Speaker and staff, they have been willing to work with us on our concerns. We have it in a position where we should have no problem administrating any of the concepts in the bill. Clark County does not see any issue with this bill.

SENATOR GANSERT:

This bill is permissive and does not really speak to the distribution of where you can vote. Would you establish voting centers or would all polling places automatically be able to receive a vote from any individual? Is it for voting centers or will any polling place be able to allow someone to vote?

MR. GLORIA:

In Clark County, we have the equipment necessary to support full vote centers. We intend to make it all available to all polling sites during the 2018 election. In fact, the four municipalities that are in the process of voting in the primary and general elections are using vote centers at all sites. There will not be a polling place in Clark County where any voter in the County cannot vote.

SENATOR GANSERT:

If you had 100 voting sites during the last election, you would have the same voting locations and anyone can vote at any of those locations?

MR. GLORIA:

For the 2016 election there were 279 polling places. Since we have increased the access, we will not have that many sites. We have a proposal for 160 sites that we will be using countywide. We plan to have an outreach program starting this July, reaching out to community partners and minority groups and anyone interested in taking part in the process. The number may grow, but we do not anticipate it going over more than 200.

SENATOR GANSERT:

You are going from 279 sites to 160 sites. I am not sure in statute if there is minimum number that you are required to have based on the number of voters? Or is it up to the individual counties to decide how many voting locations they should have?

MR. GLORIA:

I am not aware of anything in statute that dictates how many polling places a county should have. However, the process we have used identifies sites that can support a minimum of 20 machines. The throughput should be more than sufficient with 160 locations. We will be looking for public input and input from the Commissioners, City Council and the city clerks to make sure we have enough sites throughout the County to provide service.

VIDA LIN (Asian Community Development Council):

We support A.B. 272. We support section 9 that requires voting materials to be provided in Chinese. Nevada has one of the 17 largest populations of Asian-American and Pacific-Islander (AAPI) residents in the United States but ranked first in the fastest amount of growth of this population. The Chinese population is estimated at 32,423 in Nevada, second only to the Filipinos. The main language of the Chinese Community are Mandarin and Cantonese.

In 2012, the Clark County Election Department began offering voting materials in Delgado. In Clark County, 590 active voters requested to receive voting materials in Delgado. We believe this would be similar for the Chinese community as 53 percent of Chinese Americans in Nevada are limited in English proficiency. Providing voting materials to this demographic in their native

language will make this population feel more comfortable with the voting process as they will be able to register in their native language. Receiving sample ballots in their native language to get them to vote in their language will help with voting numbers.

EVAN LOUIE (OCA Las Vegas):

I am here to testify in support of A.B. 272, specifically section 9 to include the Chinese language in voting materials. I had the wonderful opportunity to know many of our State Assembly members and State Senators as an advocate for the AAPI Community. It was also an honor to serve on the Nevada Commission of Minority Affairs as appointed by our State Legislative Commission and the Governor. One of our missions was political empowerment for minorities, such as the Chinese-American community. It is symbolic to speak here today for a few reasons. The month of May is AAPI Heritage Month, and we just recognized the 135th anniversary of the Chinese Exclusion Act. The Chinese Exclusion Act was a federal legislation that barred entry of Chinese from immigrating to the United States. It was the first and only legislation to outlaw a certain ethnic group. One hundred and thirty years later in 2012, a formal apology was made in the U.S. House of Representatives. As a fifth-generation Chinese American, the AAPI community and people like myself understand the importance of legislation at state and federal levels.

We have contributed to our great State, and I am sure Assemblywoman Irene Bustamante Adams can attest to the Chinese businesses flourishing in the Spring Mountain corridor of Chinatown. There are iconic entrepreneurs and philanthropists in our community like the Lee family contribution to the University of Nevada, Las Vegas (UNLV), the Lee Business School, Tony Hsieh of Zappos contributions in downtown Las Vegas, or the Wong family from Arcata Associates with their numerous charitable contributions to our greater community. Chinese-American businesses have contributed to job creation, tax revenue, and further the economic prosperity of Nevada.

Part of my experience is organizing the civic leaders and AAPI community to get out to vote in the past few election cycles. Many of our 501(c)(3) organizations were constrained on resources to translate the numerous languages that exist in the Asian community. We discovered the need for translation to inform them about the voting process, requirements, polling locations and several other issues that were difficult to handle. There were several examples of language barriers when hiring phone banks, canvassers and events that we had to recruit

Chinese-speaking paid individuals without sufficient financial resources. We also recommend that there is a sufficient budget to hire Chinese-speaking personnel for outreach from the Election Department. Many of the Chinese community were grateful when the campaigns provided in-language materials for Get Out The Vote efforts. In Nevada, we have the fastest-growing AAPI population in the United States.

The AAPI population is an important constituency base and a significant voting block for our future elections. It is important that we provide strong considerations to add the Chinese language in our voting materials as a gesture of inclusion for minorities in our community. We are thankful to all those elected officials who sponsored and cosponsored A.B. 272, and we will make efforts to notify our AAPI coalitions across Nevada of those who supported the bill.

ALANNA BONDY (American Civil Liberties Union of Nevada):

I am an intern for the American Civil Liberties Union of Nevada, which supports the expansion of Nevadans' 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 to enact and to prevent laws. Nothing is more important to our democracy, and a healthy democracy must include voices of all of its citizens.

This past election cycle Nevada experienced landmark court decisions and settlement agreements which broadly expanded our voter access and registration efforts, including a case that required voting booths on tribal lands during early voting and on Election Day and an agreement with the Secretary of State to comply with the national Voting Rights Act. This bill will further protect voting rights by ensuring more Native Americans on tribal lands have equal access to polling places, offering voting materials in additional languages and extending early voting into the weekends for working voters. The provisions of this bill will ensure the inclusion of the voices of all Nevadans. We urge your support.

STACEY SHINN (Progressive Leadership Alliance of Nevada):

Assembly Bill 272 would provide crucial additions to our voting process and make voting more accessible in our communities. First, giving an option for counties to have a polling place in every county that would be used both for

early voting and Election Day is a commonsense policy. The current practice really creates confusion because voters understand that they can go anywhere in their county during early voting. When they show up at the wrong polling place on voting day, they end up voting provisionally which is a disenfranchisement. If we make it the norm that you can vote any place during early voting and on Election Day as well, this would decrease the confusion and make voting easier and accessible. Furthermore, this legislation would extend early voting until Sunday before Election Day. This is crucial to all Nevada workers for accessibility, particularly in the service industry. They do not have the normal Monday-to-Friday, nine-to-five job and this gives them a weekend option. Additionally, in the past, Progressive Leadership Alliance of Nevada (PLAN) has organized with black churches to do Souls to the Polls, and this takes place on a Sunday. We support A.B. 272, and PLAN will always come to the table when we are talking about increasing ballot access.

JOHN OCEGUERA (Reno-Sparks Indian Colony):

I am here representing the Reno-Sparks Indian Colony. I want to thank the Speaker of the House for bringing this bill and working with us. We specifically support sections 6, 17, 31 and 39 and support A.B. 272 in its entirety.

SENATOR SEGERBLOM:

Did I hear it would be limited to sites where there would be 500 voters? I am just a bit concerned since most tribes would not have that many voters.

CHAIR CANNIZZARO:

We will have our research analyst Mr. Stewart take a look at it and will get that answer for you, Senator Segerblom.

FAWN DOUGLAS:

I am a member of the Las Vegas Paiute Tribe, but I am not speaking for them, just myself as a Native-American person. I support A.B. 272 as it pertains to establishing polling places within the boundaries of Indian reservations. I am a voter and I believe it is a privilege to vote, and it is our right to vote. I would like other Native-American people to be a part of this process. In the past election, my family did not get to vote. My sister was emailing and calling me asking where do I go? I told her to go to the online site and put in your address, and it will tell you where your polling place is. My sister replied that the place sent me an absentee ballot. I told her to just go there and they will take care of it. My sister said they told her she was not going to be able to vote. I told her I think



you can go and vote, and she replied that it was more of a hassle than it was worth.

It was one of those processes that was a pain to deal with, and my sister got the runaround and did not vote. Her husband did not get to vote, and she was the message for my mother who lived across the street on the Snow Mountain Paiute Reservation. The three of them did not get to vote and those are just people within my family. This does not count the many others who came down to the last minute, and it was more of a hassle than it was worth. But what if it was not a hassle? What if there is an easier way for people to vote, not just people in the Paiute community? My reservation has 53 adult members of voting age. The Moapa Paiute Tribe has over 800 members, a lot more than us. But if these polling places were easier and more accessible, people are going to be more apt to vote. Is this not more of what the people want, to be involved in the process? I do not think to ask for more facilities is a huge ask, and I think it is a right.

SUE MERRIWETHER (Clerk-Recorder, Carson City):

I am here to thank Speaker Assemblyman Frierson and staff for working with the clerks, and I am here to answer any questions.

SENATOR GANSERT:

As far as the number of locations in the distribution. How do you determine that?

MS. MERRIWETHER:

In Carson City we only have one polling location, so it is easy. I believe the rural counties determine it just by the number of voters that are in certain areas and to accommodate them. But there is no set statute that requires us to have so many voters in a jurisdiction.

WAYNE THORLEY (Deputy for Elections, Office of the Secretary of State):

I am neutral on A.B. 272. I would like to thank the Speaker and his staff for working with us on this bill. As the Speaker mentioned in his testimony regarding section 7, we have requested this section be deleted by an amendment so that the ability to have the roster be in printed or electronic form remains in statute. That is simply to give counties the option, if there is equipment failure on Election Day, to allow them to switch to a paper record.

SENATOR GANSERT:

I am trying to figure out if there are any requirements or standards, whether they are in statutes or national standards, on how you determine how many polling places and the distribution of those places?

MR. THORLEY:

There is no statute or regulation with guidelines or legal standards about how many polling locations there have to be given the population of the county. Each local election official has the ability to designate certain precincts as all-mail precincts. That is, if the precinct has 200 or less registered voters, that precinct can be designated as all-mail. All the registered voters in that precinct are automatically sent an absentee ballot every election and do not have to request it. Then a polling place is not provided for those voters. It can be, but it does not have to be. That is the only guidance in statute related to precinct size and polling locations.

SENATOR SEGERBLOM:

Did you say there is no size for precincts? I thought there had to be 1,500 voters or something like that?

MR. THORLEY:

There is a maximum number of registered voters per precinct. There is no guidance on the number of polling locations per precinct, per population distribution.

ASSEMBLYMAN FRIERSON:

There was a question about the number 500 on an Indian reservation or colony. That did not make it in the bill. I reviewed my notes, and I wanted to make sure to address that concern.

CHAIR CANNIZZARO:

We will close the hearing on A.B. 272 and open the hearing on A.B. 403.

**[ASSEMBLY BILL 403 \(1st Reprint\)](#)**: Revises various provisions relating to governmental administration. (BDR 18-573)

ASSEMBLYMAN SKIP DALY (Assembly District No. 31):

Essentially, as one of the three coequal branches of government, the State Legislature receives certain authority in the Nevada Constitution under Article 3,

section 1, subsection 2. The relevant portion states if the Legislature authorizes the adoption of regulations by an executive agency which bind persons outside the agency, the Legislature may provide by law for three things. Currently, there is only one thing that is provided by law in paragraph (a) of Article 3, section 2, which is the review of regulations by a legislative agency before their effective date to determine initially whether each is within the statutory authority for its adoption. Subparagraphs (b) and (c) of Article 3, section 2 of the Constitution say that the Legislative Commission, if provided for by law, can suspend legislative agency regulations which appear to exceed that authority, and they can nullify any such regulation by a majority vote of that legislative body, which is the Legislative Commission.

I have been asked about the two different words used there, legislative body versus legislative agency. I have been told by the drafting people in our Legal Division that it is the same body and it is the Legislative Commission. The Legislative Commission is made up of six people from each House, three people from each party. Right now, it is a six-to-six even-party split between the Houses. The only way that changes is if one House has a two-thirds majority in its chamber, then that party would get a fourth appointment.

That language was added to the Constitution in 1996 by a vote of the people after legislation was passed in 1993 and 1995, then finally approved by the voters. This is not a partisan issue in my view. I do not care which Governor is in office. This is legislative authority versus the Executive Branch on who has authority to do what and when, and what authority this body will grant itself by law. We have to go through the process, so this is it; there is no other way to get it done. When the bill went through the Assembly, there was no opposition. Eight sections in the bill before section 10 were repealed.

Section 10 of A.B. 403 provides by law for the suspension or nullification of a regulation upon making certain findings. That would be in section 10, subsection 1, paragraphs (a), (b) and (c). There are three things you would make a finding on before you would suspend or nullify. Section 10, subsection 2 provides for notice and reason for suspension and nullification to the affected agency. There have been some concerns that the notice has come after you are suspended on why you would do that. We can look at changing it to getting notices ahead of time. What I anticipated for this is that it would be handled in the regulation that we would be able to adopt pursuant to this piece of legislation.

Subsection 3 of section 10 states that a decision of the Legislative Commission regarding a suspension or nullification is not subject to judicial review. I am sure you can get some counsel or advice from legal counsel. My position on that is the Constitution provides an authority to the Legislature. The act is a legislative act; it is not subject to or under the purview of the other branches.

Subsection 4 of section 10 allows the Legislative Commission to determine if an agency rule, standard, directive or statement is a regulation under *Nevada Revised Statutes* (NRS) 233B.038 and that any regulation nullified by the Legislative Commission shall be removed from the Nevada Administrative Code and any agency publications. This would be effective in the case where an agency made a rule and determined it was not a regulation by definition. If there was dispute over that, instead of going to court, the Legislative Commission could make that determination of what is not or is a regulation and what is approved. A regulation is subject to the legislative action.

Section 11 allows for the adoption of such regulations by the Legislative Commission to carry out the provisions of this measure. That is where it would be fleshed out if we were going to send a notice. I do not think any day the Legislative Commission is going to get up in the morning and say, and I just randomly picked this regulation and I will suspend it or nullify it. There would have to be some cause such as a complaint and an opportunity for the Legislative Commission to put something like that on the agenda to get information. Those are the types of things that would be put into the regulations, which is what we routinely do on laws.

Section 12 makes conforming changes to allow for not only review but suspension and nullification of regulations. Section 13, subsection 2, paragraph (m) deletes an exemption to the definition of a regulation that is inconsistent with section 13, subsection 1, paragraph (d) in the definitions of a regulation.

Section 14 changes the date for the ratification of previously adopted regulations, all of which, if this bill passes, will be subject to a future review by the Legislative Commission. We are just changing the date on everything that has been done prior to this and is recognized. If there are any issues that come up afterwards, we would have this process to make those adjustments.

Section 15 clarifies the law to reflect actual practice more precisely.

Section 22 proposes to repeal the Subcommittee to Review Regulations. During the last two Interims, the Subcommittee has been used by both sides. I view this as a highly partisan way to pass regulations that could not get a majority bipartisan vote of seven through the whole Committee. I do not think that is good policy-making for that type of Committee for adoption of regulations. If you cannot get support from the full Legislative Commission, the Subcommittee to Review Regulations, depending on who is in power and what sides you had, is fraught with problems.

Sections 16, 19, 21, 22, 23, 24, 27 and 29 make conforming changes due to the repeal of the Subcommittee to Review Regulation. Section 17 removes some ambiguous language about substantive regulations. I am not sure we need that word "substantive" there, for all regulations are substantive. Section 18 clarifies legislative intent, and regulations must be reviewed and approved by the Legislative Commission before they have any effect. Section 20 updates and modernizes the procedure by putting the Register of Administrative Regulations on the Legislature's Website, hopefully saving the State a few dollars along the way.

Section 25 requires an agency to provide a copy of a written statement of the emergency endorsed by the Governor when adopting emergency regulations. In order to adopt an emergency regulation, there has to be an emergency declared and the Governor has to declare it. When the agency turns in that emergency regulation, it needs to turn in the declaration signed by the Governor, which is not required at this point.

Section 26 contains conforming language regarding the authority of the Legislative Commission to suspend or nullify regulations.

Section 28 adds language to clarify that the courts do not have jurisdiction to limit the authority of the Legislative Commission to suspend or nullify regulations. In that section, there are provisions about some review. If people wanted to go to court, they could use some things. It just makes clear that the court cannot suspend the regulation. It is a constitutional provision if provided for by law and a legislative act.

Section 30 makes the bill effective July 1. I spoke to the main two issues that people were concerned about. There is no prenotification on how you would do this. I look at section 10, subsection 1, paragraphs (a), (b) and (c) of A.B. 403

as limiting factors on the authority that is granted in the Constitution by Article 3, subsection 2, paragraph (c) which says you only need a majority vote. You can nullify a regulation for any reason at all. Paragraphs (a), (b) and (c) give some direction on what type of findings you would need to make. I see those as limiting, so we are not just doing things for no reason at all. The other concern was in section 10, subsection 3 about "not subject to judicial review," and I do believe that is a separation of powers issue. When we are doing that, we are engaging in legislative action. That is the reason for that provision.

SENATOR SEGERBLOM:  
What does the Governor think of this?

ASSEMBLYMAN DALY:  
I have not asked him.

SENATOR SETTELMAYER:  
I share my colleague's concern in that respect. I question that this is a separation of branches of powers in the simple fact that it allows for an agency of the Executive Branch to have a regulation that is nullified by this Body without any form of judicial review. In light of the *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, it bothers me. The one thing I wanted to point out is that this is going to be a policy decision for people who vote for it or against it.

One of the things you mentioned in your testimony is that the Legislative Commission is made up of six Republicans and six Democrats. That is current. That is not the rule. The rule is based upon representation of this Legislative Body. In the 2009-2010 Interim, there were only four Democrats from the Assembly and two Republicans. So it is not an evenly split body if for some reason you fall below the proof margin, and I see that as problematic in order to maintain a balance. What are your thoughts on that?

ASSEMBLYMAN DALY:  
The only time that would change is if one House had two-thirds majority, which did happen in the Assembly when there were 28 members in one party. In that case, the rules of the Legislative Commission allow that party in that House to have a fourth appointment. As a long-standing rule, it works for both sides; it is nonpartisan and it is matter of that function. You have to get

two-thirds majority in order to get that fourth person. If it is a 15-to-27 split as it is in our House, you still only get 3.

SENATOR SETTELMAYER:

I appreciate the concept of getting rid of the Subcommittee to Review Regulations, and I can see where that one is problematic. I would love you to amend that part of the bill and get rid of the rest.

ASSEMBLYMAN DALY:

You want to get rid of the Subcommittee or no? No. If you go back and read through the history, the amendment on the Constitution was first proposed in 1993, and it was originated by former Senator Ann O'Connell. It was put on the ballot, and it had a bad explanation. People did not understand it, and it did not pass. It was again brought forward in 1995 and put on the ballot in 1996. It was brought forward by former Senator Ann O'Connell because at the time they determined agencies were making regulations, and there was no legislative oversight whatsoever. There was an argument made at that time it was an infringement on the Executive Branch's authority. The people of Nevada voted no, it was not. Regulations, when enacted, have the weight and effect of law.

I will go through the process. We have that review process. First, no agency can adopt the regulation unless it is given authority by the Legislature. Then the agency has complete control over when it decides to adopt the regulation, what the agency decides to put into it, when it decides to hold the workshop, whether to take input and if the agency applies it. Same thing when the agency goes to the hearing. The agency adopts the regulation and sends it to the Legislative Counsel Bureau (LCB), and LCB cannot amend the intent or the purpose of the regulation. The Bureau just needs to put it into legal format to be included in the Administrative Code, then it is placed on the agenda for review by the Legislative Commission. The Legislative Commission has that one chance for up-or-down voting. The Commission cannot propose an amendment, cannot do anything, either they like it or not. This is preauthorization nullification.

Once it is passed and gone through—despite what might have been said how we are going to administrate it and what it means in the workshop, despite what it means and how we are going to administrate it in the hearing, and despite any testimony given to the Legislative Commission, once it is over there—and the agency has it, it is theirs. The only opportunity we would have to do anything after that if we did not like it or if they were administrating it

outside of the legislative intent or if they are administrating outside because of administrative change or a director change, there would be nothing you could do other than to bring that portion into statute during the Legislative Session. This gives the Legislature within those parameters the ability to make sure the Executive Branch is carrying out the legislative intent. If the agency fails to do that or does not administer the way it said when originally getting the regulation approved, we would have a measure of ability to bring that back in line with legislative intent.

That is the purpose of the bill, and I do not see that as a separation of powers issue. I do not care which Governor is in office across the courtyard. I do not think any of them will like it. The Legislature will eventually pass this. We will decide if we want to grow up and be a coequal branch of government in this State. I will continue to keep pushing until that happens.

SENATOR SEGERBLOM:

You and me both are going to keep pushing.

JESSE WADHAMS (Las Vegas Metro Chamber of Commerce):

I am here on behalf of the Las Vegas Metro Chamber of Commerce. I will speak mostly to the concerns of the language of the bill. The separation of powers issue is your debate with the folks across the courtyard in two other buildings. We have specific concerns with the language of this bill as written. I had a spirited conversation with Assemblyman Daly, and I appreciate his thoughts. Section 10, subsection 2, paragraph (b) is what concerns us here—the postapproval retroactivity of the process. This can possibly create some instability in heavily regulated industries like insurance and taxation. Stability in those areas is critically important, so that retroactivity is of some note. Section 10, subsection 2, paragraph (b) creates a four-month window for replying as to why the regulation may have been struck down or nullified. The concern there under NRS 233B.063 is you have window of time in which to propose permanent regulations. You could start to fall outside that window as the agency might not have insight to what was wrong with the particular regulation in order to start the process of moving forward to repair the permanent regulation.

I would note to address the separation of powers, the arguments for passage from Question No. 5 in 1996 to amend to the Constitution. The courts still have the ability to interpret regulations and may rule a particular regulation might be



legally defective. I think it is important to have some component for judicial review. A couple of general concerns are the Legislature is specifically exempt for both Public Records Law and the Open Meeting Law. I suspect that would be addressed.

MISTY GRIMMER (Nevada State Contractors Board):

We do have several objections to the bill. The Nevada Contractors Board oversees hundreds of licensees in many different fields. There are lots of different contractors, and they have a lot of different roles. It is the responsibility of the Contractors Board to make sure that the public is protected through the actions of the contractors. Without the regulations, we do not have the muscle behind our position to do that. The regulations essentially have the full force of law for the licensees we oversee. I will not get into the legal or constitutional arguments. In section 10, subsection 1, paragraphs (a) and (b)—even though I know Assemblyman Daly pulled those directly from the Constitution—are the types of issues that would ordinarily be addressed before the regulations are adopted. That is exactly what the Legislative Commission does right now. They consider whether the regulation is within the keeping of the statute that was the impetus of the regulation in the first place.

For a later Legislative Commission to come back and question that, then they are questioning the intent of the original Legislature that passed that law. To reinterpret that could get risky. Since for our licensees the regulations do have the full effect of the law and that is what they govern their entire business operations by, we are concerned about the instability that can be brought into the marketplace. Similar to what Mr. Wadhams said for the other industries, it is the same effect for the contractors' industry. Part of what we do in the regulations is we have 40 different classes of contractors that are established in regulations and 120 different subclasses of contractors. If you have a contractor who has a certain type of license, what would happen in a scenario where the Legislative Commission could say we do not like the regulation that established that license? If the regulation goes away, what is the contractor supposed to do with his or her license? This contractor theoretically no longer has a license. How is one supposed to operate legally without a license? That is just an example of something that could happen.

We did bring up our concerns with Assemblyman Daly that there is not any due process for the agency to be able to come in and provide an explanation for why it enforces the regulation in that certain way or why that regulation is on

the books. I would think we want that opportunity put in place for the agency to say this is why we have the regulation that way and to ensure the Legislative Commission has the entire picture of the situation before they would vote to suspend or nullify a regulation.

JOANNA JACOB (Nevada Contractors Association):

Because we are a highly regulated industry, we were very receptive to the concerns that Ms. Grimmer has placed on the record. We rely on the standards on our industry. We participate in the regulatory process. I spoke with Assemblyman Daly about separation of powers and my concerns about the lack of judicial review or any appeal on a process or some process to seek review on a decision by the Legislative Commission to nullify regulation. That is something that is concerning to me, and I think that we agree to disagree on that issue.

We talked about the history of the ballot question. I do think there is a role for the Legislative Commission to review regulations. That is why the ballot question was initially proposed, and there was no overview whatsoever. As a regulated industry, we would like to have some kind of review of that review because there are always disagreements on the ways that laws are interpreted or the regulation is interpreted. If we need to seek review, we would like to have that opportunity to do so. I agree with comments that have been put on the record by Mr. Wadhams and Ms. Grimmer.

ALEXIS MOTAREX (The Associated General Contractors of America):

We did not testify in the Assembly. We have the same concerns with no judiciary review. I have nothing more to add than what has already been stated.

MICHAEL HILLERBY (State Board of Pharmacy; State Board of Nursing):

I would like to thank Assemblyman Daly for talking with us. He spent some time and made an effort to talk with us. I understand the concerns he articulated in his testimony. In section 10 on the idea of providing notice, he did explain as he said in his testimony to us that it was his intention in section 11 that the regulations would cover advance notice. We would feel more comfortable if those kinds of things were included in the bill, so that an agency had notice and had an opportunity to cure and talk about what the differences of opinion were between the Legislative Body and the agency. I do not have much more to add to those boards that came up in opposition. We license people for pharmacy and nursing with a great deal of public health and safety issues. Abrupt changes to those regulations without notice, without opportunity to correct, could have

some difficult consequences for us. I do not envision that would be a regular occurrence but without some kind of other language in A.B. 403, we are not comfortable with this bill.

NEENA LAXALT:

I represent five regulatory boards, but I am speaking from personal experience. I have talked with Assemblyman Daly. We too can relate, and this is like a ghost bill that slipped under the radar. I have concerns about the thought process that the Legislative Commission would be nonpartisan. Anytime there is anything going on in the legislative process, there will be some partisanship. To have no outlet if politics get into the picture with some regulatory process concerns me and my boards. The retroactivity part concerns me too. It does lead to the instability of many things that are out there from water to mining.

ASSEMBLYMAN DALY:

I would point out that the opposition is entirely from the Executive Branch. This is about the Legislative Branch that was given authority from the Constitution by the voters. I do not think the legislative oversight or legislative ability to look at Executive Branch agencies ends with the approval of a regulation. But if things change where agencies are administering or doing something different than what the approval was granted on, I think the Legislature, by the Constitution, has the authority to go back and make those corrections.

Regarding the judicial review and various things. The ballot question did say that applied for judicial review on whether the regulation was actually constitutional. That is unchanged by this bill. This only said there is no judicial review on the legislative action that is taken. Counsel may want to comment on the due process issue. I do not believe there is any due process issue. There is not an issue because there is not a right that has been taken away. If there is an issue over prenotice and some other stuff, that would be put in the regulations that we might put in the bill. I am willing to look at that, and I do not think that is unreasonable.

There is no intention here to say we are going pull the rug out from under a contractor's license. There is going to be a process there and going to be someone who comes to that. You have to have seven votes in order to do that. Nevertheless, we will try to look at that in the next few days and see what we can come up with. This is a Legislative Branch authority issue. As the Legislative Branch, we deserve to be coequal and to have our say.

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CHAIR CANNIZZARO:

We will close the hearing on A.B. 403 and open the hearing on A.B. 392.

**ASSEMBLY BILL 392 (1st Reprint)**: Revises provisions concerning certain communications relating to elections. (BDR 24-85)

ASSEMBLYMAN JAMES OSCARSON (Assembly District No. 36):

Assembly Bill 392 concerns election-related communications. The bill amends chapter 294A of NRS, which governs campaign practices. Section 2 requires that if communication is published in support of or opposition to a candidate in an election and that communication includes the official name and address or other official contact information of a governmental entity, the communication must disclose that it was not endorsed by and is not an official publication of Nevada or a political subdivision as applicable.

Government entity is defined to include the State of Nevada or any agency, board, commission, or similar entity as well as a political subdivision or any unit of government of that political subdivision. The official name and address or other official information of a governmental entity is defined to mean the legal or commonly recognized name of a governmental entity.

In addition to printing, "publish" is defined as an act to include posting, broadcasting, mailing or otherwise disseminating that information. During the last campaign cycle, I encountered a number of instances where election-related materials included names, addresses or other markings of a governmental office or unit of government. Including the official name and address or other official contact information of a government entity in an election communication leaves the impression to the public that the candidate has been endorsed by a specific office of the State or a political subdivision. Because the whole area of communication involves First Amendment issues and rights, the goal of A.B. 392 is to clarify the law.

This bill is simple. To summarize, A.B. 392 proposes that campaigns in support of or opposition to a candidate must ensure they clearly disclose that a communication bearing the name of a governmental entity was not published by the government entity.

SENATOR SEGERBLOM:

Could you give me a specific example of where this has been used? Maybe in your campaign?

ASSEMBLYMAN OSCARSON:

Yes, I will be happy to do that. In my campaign, after some of the votes we took during the last Session, there were mailers sent out that indicated—or people inferred and assumed it had come from the Department of Taxation with the seal of the State and the address of that entity as well—individuals, others and myself, owed taxpayers a certain amount of dollars. It was on a flyer that insinuated that it was from the Department of Taxation.

SENATOR SEGERBLOM:

Did it have the disclaimer for who paid for it?

ASSEMBLYMAN OSCARSON:

It did but not on the front. You know how they try to fold them. It did not, so the initial page that you look at looked like it was from them. The bill is to make sure that it is disclosed in a clear and prudent manner.

SENATOR SETTELMAYER:

I appreciate the concept of the bill. I question the concept to go for or against the initiative and for or against the concept. There was a previous bill that went through this Senate Body dealing with registering to vote where we had some bad actors last time, so I appreciate the bill. I just question to go further.

ASSEMBLYMAN OSCARSON:

Senator, I would be happy to work with you on that. At this late date I do have some hesitation about trying to work things back through two Houses. We got a really good vote from the other side. I would be happy to discuss that with you and if that would be your preference, we can certainly work on that. Thank you. I look forward to, hopefully, your passage.

CHAIR CANNIZZARO:

We will close the hearing on A.B. 392 and open the hearing on Assembly Joint Resolution (A.J.R.) 9.

**ASSEMBLY JOINT RESOLUTION 9**: Urges Congress not to repeal the Patient Protection and Affordable Care Act or its most important provisions.  
(BDR R-1084)

ASSEMBLYWOMAN AMBER JOINER (Assembly District No. 24):

Assembly Joint Resolution 9 makes the recommendation to Congress to not repeal the federal laws relating to health insurance that we call the Affordable Care Act (ACA). Unfortunately, this law has been a partisan issue for years. A recent poll by the Kaiser Family Foundation found that 75 percent of Americans believe that the current administration should do what they can to make the ACA work while only 19 percent say the administration should do what it can to make the law fail to replace it later.

As you can see from last week, the administration and Congress did not take the public's opinion on this. It sounds to me like more and more people are saying there are some tweaks we can make, there are some fixes we can make, but do not repeal it. The text of this resolution is brief, but it acknowledges the importance of several key provisions that we have come to expect from our insurance coverages as Nevadans. First, covered in the resolution, children stay on their parents' insurance until they are 26 years old. Medicaid covers many more people. Tax credits and subsidies have improved access to health insurance for millions of people in the Country.

Discrimination based on preexisting conditions is prohibited. I like the example from five or six years ago before the ACA—a preexisting condition was getting pregnant, if you were pregnant you could not find health insurance. A preexisting condition was if you had a history of cancer, you had trouble finding health insurance, if you could at all on the outside market. We have people choosing jobs, and I have been in that situation myself, where you quit a certain job and move to a different job because of health insurance, and it is a major decision that people have to make. Part of the greatness of the ACA is that people were able to make decisions based on other factors and knew they would still have access to health care and that is a key provision, discrimination based on preexisting conditions.

Lifetime and annual limits on coverage is something that the ACA provided and is crucial. It used to be if you were a cancer patient and if you were too expensive to cover, there were many insurance companies that once you hit your lifetime maximum, then you were dropped. You would hit a cap on how

much they would spend on you before you would be dropped. That is no longer allowed according to the ACA. The ACA amended the coverage for screenings, immunizations and many important preventive care items that we know in the long run help keep people healthy.

What could happen if the ACA is repealed in whole or in part? I have facts specific to Nevada. These are facts compiled by Committee staff and the U.S. House of Representatives in January of this year. This is where we get into the actual numbers in Nevada. These numbers are pretty staggering. There were 200,530 individuals who have gained coverage since the ACA. A quarter of a million people have gained coverage in Nevada. Many of those could lose their coverage if the ACA is repealed in part or in whole; 65,000 were kids who gained coverage who were not covered before. We know that before the ACA, Nevada was one of the worst states for insurance coverage. We hovered at second worst in the Country for how many people we had on insurance, and 19,000 young adults in Nevada were able to stay under their parents' health insurance.

I find these numbers most important in light of what was passed through the House of Representatives last week. According to our Health and Human Services Department, as of April, 206,780 Nevadans have been able to enroll in the newly eligible category of Medicaid. When our State decided to expand Medicaid, we had over 200,000 people now covered because of this expansion. All of those people are at risk of losing coverage if ACA is repealed in part or in whole. With the passing of the House American Health Care Act, the passing of this resolution is more important. The passage of that Act, if it continues the way it looks into the Senate, leaves our Medicaid federal match at risk. The expansion population is especially at risk. They are talking about doing a per head financing of Medicaid under some of those provisions, and that would be devastating to Nevada. We are one of the states in that formula that would lose; we are not one of the states that would gain. It would also leave parents of ill children concerned about the preexisting conditions provision in the current federal version of the bill. The federal Act would leave it up to the states as to whether people had to cover preexisting conditions, and that would be devastating to our families in Nevada. The uncertainty as it goes to the U.S. Senate remains because Senators could continue to amend it.

I urge your support for A.J.R. 9. I think the path forward is to encourage Congress not to repeal the ACA. As the Kaiser Family Foundation poll found, we

should continue to improve it rather than lose some of the fundamental coverages that we have come to expect.

JON SASSER (Legal Aid Center of Southern Nevada; Washoe Legal Services):

I support A.J.R. 9. I have worked the last 20 years on trying to get Nevada off the bottom of the insurance coverage list for our folks and for per capita Medicaid spending. The thing that made the difference was the ACA. There were some 300,000 people who have come onto Medicaid after the ACA, 200,000 as a result of the new category and another 100,000 or so who came out of the woodwork. Our State budget is largely built on Medicaid expansion. I support the Governor and his decisions to go all in for Medicaid expansion in Nevada because of the extremely favorable federal match rates.

In Washoe County we are hearing now, do not worry about it, you can keep those federal match rates under the bill that passed in the U.S. House. That is true and is not true. It is true for an individual, but this population tends to do what we call "churn." Somebody will be on Medicaid for a few months, then get a job and go off, then come back on. As I understand the proposed legislation passed in the U.S. House, if there is a break in service and you go off and come back on, it will be not on the higher federal match rate for Nevada but at the lower regular rate of \$0.65 on the dollar from the federal government, instead of the \$0.90 on the dollar after a couple more years pass.

The Governor has doubled down in his budget for Medicaid maximization. For example, our mental health system has been largely dismantled as a State delivery system and gone with private providers covered by Medicaid. Any insurance program has gone in that direction. We are covering kids with autism and this has been a very slow ramp up on ways to find providers, but in theory we cover a lot more kids with the Medicaid money. If the plug were pulled on those programs and we had to come up with General Fund dollars to replace the Medicaid match, it would put every other aspect of State government in our budget in disarray. So for among many reasons, I urge your support of this resolution.

BARRY GOLD (AARP):

We at AARP are opposed to the American Health Care Act that passed the House last week for a lot of the same reasons you already heard but especially how it increases health care cost for older adults. Currently with the American Health Care Act, older adults are allowed to be charged three times as much as



younger people for their health care. With the ACA, that increases to five times as much and will make insurance unaffordable for many older Americans. There are going to be a lot of people losing their insurance whether it is because of Medicaid or just because it is going to cost way too much money.

KIMBERLY MULL (Nevada Coalition to End Domestic Sexual Violence):

A little over 48 percent of women in Nevada are victims of domestic or sexual violence by their intimate partner. Unfortunately, we have a conviction rate of around 2 percent of reported sexual violence crimes. Routinely, women are not believed or they are not able to find justice. However, who does believe what happened to them are insurance providers because domestic violence and sexual violence and the results of those acts are considered preexisting conditions. We are very much in support of A.J.R. 9, doing everything we can to make sure victims are not further victimized because of the things they have experienced and ensuring they have affordable access to health care. We ask for your support.

ASSEMBLYWOMAN JOINER:

Thank you for your time today.

CHAIR CANNIZZARO:

We will close the hearing on A.J.R. 9 and open the hearing on A.J.R. 7.

**ASSEMBLY JOINT RESOLUTION 7**: Expresses the opposition of the Nevada Legislature to certain proposed changes to the federal Medicare and Social Security programs. (BDR R-699)

BARRY GOLD (AARP):

I am pinch-hitting for the Speaker today on A.J.R. 7. It is a simple and short bill which talks about sending a letter to Congress saying that the Nevada Legislature wants to keep the critical benefits from Medicare and social security. I want to talk about those critical benefits and why we want to preserve those benefits for the future. In *The Pike County Courier* and *The Goshen, New York, Chronicle of AARP* CEO Jo Ann Jenkins states:

AARP has a long history of fighting for the affordable health care and against attempts to cut Medicare. We've long opposed attempts to force older Americans to pay more for their health care. This includes any efforts to eliminate the guaranteed level of

coverage that has been part of Medicare from the start. The importance of Medicare to aging Americans is indisputable. Today, 57 million Americans rely on Medicare to help pay for their prescription drugs, doctor visits and hospitalizations. Workers have earned these benefits by paying into the program throughout their working lives. Medicare is the bedrock of health security for all Americans as they age. It helps keep older people out of poverty and enables them to live with independence and dignity. Current beneficiaries need to know the coverage they count on every day will not be reduced or taken away. While fighting to protect and defend Medicare for current and near-term beneficiaries, we must also improve it for future generations while continuing its guaranteed benefits.

I would like to talk about social security. AARP has been working on Social Security not to just protect it but to strengthen it for years. We have had several programs, including last year something called "Take a Stand." I spent considerable time last year talking to more than 100 Republicans, Democrats, Independents, a little bit of everybody across Nevada from Elko to Boulder City, including some of you on this Committee and many more in the Legislature. Also included were city council members, county commissioners, mayors and business leaders. I talked about AARP's commitment to preserve social security benefits not just for current retirees but for the future.

Social security benefits are earned and paid into by Nevadans. Now everyone that we talked to, whether they were Legislators, county commissioners or mayors, all agreed that social security benefits are important to their constituents and the community. They frequently hear about it when they talk to their community. A couple of brief numbers reference AARP's Nevada Quick Facts ([Exhibit C](#)).

We must protect the guaranteed benefits that are promised to them. Privatization is unacceptable. If you switch Medicare to a voucher system or premium support, you no longer can guarantee those guaranteed benefits. The amount that you receive to pay for health care coverage could change. As prices rise, you may not be able to buy adequate coverage. All of a sudden you are on the market looking for insurance, and you may have to buy something that does not cover as much as Medicare does.

One of the common solutions is to raise the age. They say you can raise the age of Medicare and social security because people live longer and it is a possibility. Unfortunately, not everybody lives longer. If you go into multicultural communities, people of color do not enjoy the longer life. Hard laborers do not live as long as other people. To say that people live longer is difficult. The other idea is if people have to wait to receive social security benefits until they are 70 years old, the question is do you want a roofer on your roof until he or she is 70 years old because that person is waiting to get social security? This is something to think about.

The bill is about preserving those critical benefits. Social security and Medicare are things we have paid into over a lifetime. We need to make sure people can depend on them when they are ready to retire. On behalf of AARP Nevada's 336,726 members, because Senator Hardy asked me for the exact number and that is of April 30, we urge you to support and pass this bill to let Congress know that social security and Medicare not only need to be protected but strengthened for the future.

RITA WEISSHAAR (Nevada Alliance for Retired Americans):

We support A.J.R. 7. Many of our seniors in Nevada rely upon social security as their only source of income in retirement. Medicare is their only means to medical care. For this reason we stand in support, and we hope that you support this resolution.

MR. SASSER:

We support A.J.R. 7. Our clients rely on social security and Medicare. I am over 70 and I rely on it. I urge your support.

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CHAIR CANNIZZARO:

Seeing no further business, I adjourn the meeting at 5:11 p.m.

RESPECTFULLY SUBMITTED:

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Janae Johnson,  
Committee Secretary

APPROVED BY:

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Senator Nicole J. Cannizzaro, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	3		Attendance Roster
A.J.R. 7	C	1	Barry Gold / AARP	Social Security: 2014 Nevada Quick Facts