

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

**Eighty-Second Session
April 6, 2023**

The Committee on Legislative Operations and Elections was called to order by Chair Michelle Gorelow at 4:06 p.m. on Thursday, April 6, 2023, 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/82nd2023.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Michelle Gorelow, Chair
Assemblyman Rich DeLong
Assemblywoman Jill Dickman
Assemblyman Reuben D'Silva
Assemblywoman Cecelia González
Assemblyman Brian Hibbetts
Assemblyman Richard McArthur
Assemblyman Cameron (C.H.) Miller
Assemblywoman Daniele Monroe-Moreno
Assemblywoman Sabra Newby
Assemblyman Steve Yeager

COMMITTEE MEMBERS ABSENT:

Assemblywoman Brittney Miller (excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Howard Watts, Assembly District No. 15

STAFF MEMBERS PRESENT:

Bryan Fernley, Committee Counsel
Haley Proehl, Committee Policy Analyst
Shuruk Ismail, Committee Manager
Kristi Howard, Committee Secretary
Garrett Kingen, Committee Assistant

Minutes ID: 764



OTHERS PRESENT:

Eileen Reavey, National Grassroots Director, National Popular Vote
Christopher Pearson, Secretary, National Popular Vote
Emily Persaud-Zamora, Executive Director, Silver State Voices
Kristee Watson, Deputy Director, Nevada Conservation League
Yolanda Knaak, Legislative Club President, Nevada Federation of Republican
Women; and Private Citizen, Incline Village, Nevada
Lynn Chapman, State Vice President, Nevada Families for Freedom
Janine Hansen, State Chairman, Independent American Party of Nevada
Bob Russo, Private Citizen, Gardnerville, Nevada
Lisa Partee, Private Citizen, Carson City, Nevada
Melissa Clement, Private Citizen, Reno, Nevada
Richard Nagel, Private Citizen, Carson City, Nevada
William Horn, Private Citizen, Reno, Nevada
Betsy Strasburg, Private Citizen, Carson City, Nevada
Joy Trushenski, Private Citizen, Carson City, Nevada
Shawn Meehan, Private Citizen, Minden, Nevada
Casey Rodgers, Private Citizen, Minden, Nevada
Julie Burke, Private Citizen, Reno, Nevada
Gary Bowman, Private Citizen, Minden, Nevada
Jim DeGraffenreid, National Committeeman, Nevada Republican Party
Mariann Humphrey, Private Citizen, Carson City, Nevada
Leslie Quinn, Private Citizen, Las Vegas, Nevada
Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada
Katrín Ivanoff, Private Citizen, Las Vegas, Nevada
Oscar Williams, Private Citizen, Reno, Nevada
Gabriel Di Chiara, Chief Deputy Secretary of State, Office of the Secretary of State
Mark Wlaschin, Deputy Secretary for Elections, Office of the Secretary of State
Izack Tenorio, representing Campaign Legal Center Action
Kerry Durmick, Nevada State Director, All Voting is Local
Aria Flores, Las Vegas Director, Chispa Nevada; and Private Citizen, Las Vegas,
Nevada
Mark F. Kampf, Clerk, Nye County

Chair Gorelow:

[Roll was taken. Rules and protocol were reviewed.] We will take our agenda items out of order today, so we will start with Assembly Joint Resolution 6, which proposes to amend the *Nevada Constitution* to adopt the National Popular Vote Compact.

Assembly Joint Resolution 6: Proposes to amend the Nevada Constitution to adopt the National Popular Vote Compact. (BDR C-389)

Assemblyman Howard Watts, Assembly District No. 15:

It is a pleasure to be in front of this Committee. I want to talk about why I felt it was important to bring Assembly Joint Resolution 6 forward for your consideration. I am joined by Eileen Reavey, a senior advisor with National Popular Vote, who will provide some additional background related to the measure, its history, and how it works.

I have been a strong proponent of the national popular vote. I put it in the context of our continually evolving and improving democratic republic. Over time, we have expanded the franchise to various citizens in this country. In addition, we have expanded the ways people can participate. We have created initiatives, referenda, and ways people can actually vote directly on enacting or repealing policies. That was something that came around about a hundred years ago. Before that, there was no aspect or option for folks to participate directly in policymaking. We have also seen changes in the way our U.S. senators were chosen. Originally, a lot of them were chosen by state legislatures and we actually modified that process to provide authority to the individual people, to the voters, to elect those U.S. Senate representatives and not to have the go between of electing the legislators who then made that decision. To me, a similar thread connects Assembly Joint Resolution 6 with the national popular vote.

I wish, when people thought of who they vote for, state legislator was the most important position. However, the U.S. President is number one, and then Congress right below that. Our representatives are elected directly by the people, our U.S. Senators are elected directly by the people, but the president is not. We have the Electoral College, and I will note states do have the ability to determine how their electors are apportioned. States currently have different ways of doing that. Some do it winner takes all based on the outcome of that election in their state. Some do it by individual congressional district. We have already seen there are different ways states determine and manage how they would do that.

Assembly Joint Resolution 6 proposes that if enough states come together, we will be able to move towards a system where every vote has the same weight. To me this is one of the foundational principles. It maintains that equal representation we have in the Senate, where every state has two senators. But when it comes to electing the president, I believe every voter's voice should have equal weight and equal consideration in making that determination. The National Popular Vote Compact would do that. It would guarantee one person, one vote in electing the highest office in our nation. That is why I wanted to bring this forward for your consideration. I think there is no better way to do this than to also send this measure to the people to decide how they think our president should be elected. If we can get enough folks to get on board with this across the nation it will ensure whoever gets the most votes across the U.S. for president will be the winner. With that, I would like to pass it over to Ms. Reavey to provide some additional background.

Eileen Reavey, National Grassroots Director, National Popular Vote:

It is my pleasure to be here today to discuss with you what I believe is one of the most monumental election reforms that is going to come before you and that we will see passed in our lifetimes. As Assemblyman Watts shared, the National Popular Vote Compact bill will guarantee the U.S. presidency is won by the candidate who wins the most popular votes in all 50 states and the District of Columbia [page 1, [Exhibit C](#)]. This law applies the fundamental American principle of one person, one vote to the one office which represents all of us, the U.S. presidency. When it has passed, for the first time in our nation's history, every vote for the president will be equal in every presidential election.

Frankly, our current system of electing the president is not in the best interest of most, let alone all, Americans. The shortcomings of the current system stem from the winner-take-all laws that Assemblyman Watts discussed. This is how states have chosen to participate in the Electoral College, which is why we are before the state Legislature asking you to consider that constitutional duty of if what we are doing now is really in the best interest of all Nevadans. Currently 48 states including Nevada have statewide winner-take-all laws that will award all of the state's electoral votes to the candidate who receives the most popular votes within that state. Because of these laws, 5 of our 46 presidents, 10 percent of them, have come into office without winning the most popular votes nationwide [page 2].

This has happened two times in our lifetime. In 2000, 537 votes in the state of Florida won the election for President George W. Bush; and in 2016, narrow margins in three states were enough for then-candidate Donald Trump to rightfully win the presidential election and the Electoral College under our current laws despite losing the popular vote by over 2.8 million votes. Equally as important is realizing this has happened almost an additional two times just in the first 20 years of this century. In 2004, if 60,000 voters in the state of Ohio had changed their votes, John Kerry would have won the state of Ohio, won the Electoral College, and gone on to be the next president despite losing the popular vote by a larger margin than Hillary Clinton did in 2016: 115 million ballots were cast in that election, and 60,000 people in one state could have changed the outcome for the entire country. The other time we were very close to this happening was in 2020: 5,200 voters in Arizona, 5,900 voters in Georgia and 10,300 voters in Wisconsin won the election for President Joe Biden, not the 7 million voters who delivered him the popular vote victory [page 2].

As a result of these laws, presidential candidates are really only paying attention during the general election campaign to voters in these states that happen to be closely divided in a presidential election year [page 3]. They are campaigning to this narrow group of undecided voters every four years, resulting in an election where every American's vote is not equal. This system is what gives us these close totals in a handful of states that are repeatedly resulting in controversy, uncertainty, recounts, hairsplitting legal decisions, and a loss of confidence in our elections in some places. These are all problems of the current system, and they will be alleviated, not exasperated, by passing national popular vote.

These winner-take-all laws, as Assemblyman Watts mentioned, are not in the *United States Constitution*. It was never mentioned at the 1787 Constitutional Convention. It is not mentioned in the Federalist Papers. The *U.S. Constitution*, specifically Article II, Section 1, gives states the exclusive control over the choice of method of awarding your electoral votes [page 1, [Exhibit C](#)]. This is the power the Supreme Court has termed a plenary and absolute power of the states which means there is a built-in way for states to reform the system. Specifically, Article II, Section 1 reads, "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors" Those 17 words are what allow you to have winner takes all and allow other states to use the congressional district method and for states to adopt national popular vote [page 6].

The National Popular Vote Compact law will take effect when enacted by states with a majority of the electoral votes. Currently that number is at 270. When this happens, the presidential candidate who receives the most popular votes in all 50 states and the District of Columbia will win the electoral votes from all of the enacting states which will be a majority of the Electoral College, meaning it is enough for them to win. The candidate who wins the most popular votes nationwide will be guaranteed to win the Electoral College [page 6]. Under the National Popular Vote law, no voter is going to have their vote canceled out at the state level any longer because their choice differed from the majority sentiment in their state. Instead, every voter's vote will be added directly to the national count for the candidate of their choice. This will ensure every voter in every state will be politically relevant in every presidential election, regardless of where they live or who they vote for.

The National Popular Vote Compact bill also retains the power of the states to control how the president is elected. It is within your power to work with other states to repair the Electoral College and improve the electoral system. So far, this bill has been enacted by 15 states and the District of Columbia. We have 195 of the 270 electoral votes needed to activate the law [page 6]. In previous years we have also had a lot of success in other states and have passed at least one legislative chamber in nine additional states with 88 electoral votes including Republican-held chambers in Arizona and Oklahoma. Currently this legislative session you are among 11 other states considering this bill. With a total consideration of 160 electoral votes, getting to 270 is not something that is decades away. It is something we can do by the 2028 presidential election if you are hopefully a part of that solution. Currently, we have bills pending in Michigan and Minnesota; within two months, we could be at 220 electoral votes and just 50 electoral votes away.

The way we elect the president is frankly broken, and before you is a tangible, constitutional solution already 72 percent of the way towards enactment, supported by over 3,500 state legislators across the country and dozens of national state and local groups. You should have in front of you this document [\[Exhibit D\]](#) which shows a lot of the supporters we have. Among them are the American Civil Liberties Union of Nevada, League of Women Voters, National Association for the Advancement of Colored People, Brennan Center for Justice, and Stand Up America. They represent millions and millions of members across the country

who believe in the very basic American principle of one person, one vote. Every vote should be equal. I hope you will consider this bill, and I am happy to take any questions you might have.

Assemblyman Watts:

We are glad to answer any questions that Committee members may have at the pleasure of the Chair.

Chair Gorelow:

Committee members, are there any questions?

Assemblywoman Dickman:

Back in 2016, every major Republican candidate visited small towns in Nevada. In 2020 every Democratic candidate was right here in Carson City. As a result of some of those relationships, one of our very own senators is now an adviser to President Biden. If this passes, do you really think they will even bother with us in such a small place with such a small population instead of going to the population centers?

Assemblywoman Watts:

It is important to note a couple of things. One is we are talking about the general election. Nevada is poised to remain very close to the beginning of the presidential primary contest calendar, and that is going to drive a lot of attention and a lot of candidates to come to Nevada to make their case because they are going to be looking to win this state and show their campaign has momentum. I think we are still going to get all those candidates coming from both parties trying to win Nevada in a presidential primary. For the general election, we are still in an area with close elections and undecided voters. We are still going to have close statewide races, including governor and our senators. Those are going to be races presidential candidates are going to want to come here and get involved in and support their preferred candidates in those downballot races as well so that they have support in Congress and in state government.

I do not think this is going to have a negative impact on the interests of presidential candidates here in the state of Nevada. Again, I think what this does is actually opens up the playing field. I want candidates to come to Nevada, but I also want them to visit every state at least once. There are states that are completely ignored in this process, and I do not think that is appropriate. I think this will encourage a new system of elections where folks are going to go to every community and try and get every vote possible to make sure they are victorious.

When we look at the system now and we look at how close Nevada is, we have had recent elections that get close on each side. Whoever is on that losing side in the presidential election knows their votes do not matter. In recent presidential elections, it has been the Republican party most impacted. If the Democratic candidate for president wins here by one vote, the impact of all of those Republican voters and their preference is basically wiped off the map. I think this is a better approach.

Assemblyman DeLong:

I appreciate your bringing up Article II, Section 1 and stating plenary power is with the Legislature. My concern with what is in front of us now is we are looking at putting this into the *Nevada Constitution* and going through a six-year process, which dilutes the Legislature's ability to modify our position. If for some reason we did pass this, and it turned out not to work and we want to back out, Assembly Joint Resolution 6 as written does allow for backing out. We lose some of our authority and that is concerning to me.

Assemblyman Watts:

I appreciate you did note the language does provide for withdrawal and allows for withdrawal by statute, so it does maintain the Legislature's power. Additionally, it is within the Legislature's authority to propose an amendment to the *Nevada Constitution*, and to submit that amendment to the people for final vote of adoption or rejection. Again, if we saw that it did not work, we would have the option if we wanted to remove it from the *Nevada Constitution*. We would be able to pursue that as well. I think there are a range of options. To put a finer point on it, the way this works is it does not take effect until we get to 270 electoral votes within the compact. I hope for great success across the country, but even if we pass this it is likely not going to take effect before the next presidential election to be sure. If there is some dissatisfaction with the outcome, there are a range of methods that can be pursued to exit it. There have to be 270 electoral votes for it to take effect. If there was a general disagreement from other states and they withdraw, once we drop below 270, the compact would no longer be in effect.

Assemblyman Hibbetts:

During the presentation, you told us some great stories about the history of the Electoral College and the history of our elections, but not once in your presentation did you mention what is in this. As you are asking us to alter the *Nevada Constitution*, I was wondering if you might be available to spend a few minutes on what is in this document.

Assemblyman Watts:

Do you have any specific questions, or would you like us to walk you through the language that is being proposed?

Assemblyman Hibbetts:

I do not think you need to read the entire thing into the record, but just in a general sense, could you walk through what this document does?

Assemblyman Watts:

I will turn it over to Ms. Reavey to walk you through it. I think we attempted to cover that in the presentation, which is proposing to have Nevada join a compact with other states that would collectively agree to allocate their electoral votes to whoever wins the most votes across the entire nation; it would not be effective until there were enough electoral

votes within that compact to actually provide the electoral votes necessary for a candidate to win; and there is a provision for the state to be able to withdraw from the compact if they so wish. That is it at a high level. I will turn it over to Ms. Reavey to give some additional details on the content of the measure.

Eileen Reavey:

Within Article 15, Section 14A, Subsection 1, it states that any state may join this compact. Subsection 2 is the right of the people within the states to vote for the president. This is so if a state legislature were to say, "We do not want the citizens of our state to vote for the president, we ourselves are going to appoint those electors," that is not a state that would be participating in the national popular vote total. They would be disenfranchising their citizens in many ways if they chose to do that. A popular vote must be held for it to be part of the National Popular Vote Compact total.

Subsection 3 mimics some of the language already in federal law around presidential electors. It states the law will be that it is prior to the time set by law for the meeting and voting of presidential electors. The chief election official of each state is going to determine the electors won in Nevada are the ones won by the national popular vote winner. On page 3, line 29, it states, "At least six days before the day fixed by law for the meeting and voting by the presidential electors, each member state shall make a final determination" This is something that is already required by federal law in the Electoral Count Act, which was also updated at the end of 2022 for only the second time in our nation's history. Further in subsection 3 it also talks about this important part: we must have 270 electoral votes committed by that July 20 date, six months before the inauguration of the next president. If a state were to join or withdraw from the interstate compact within that six-month period, it could not take effect until after the next president is inaugurated. This is enforced by the impairments clause of the *U.S. Constitution* and no state in the history of our country has ever removed themselves from an interstate compact without adhering to the terms of that compact.

The other provisions in subsection 4 talk about when it will take effect when states cumulatively possessing a majority of electoral votes have enacted the compact. Any state may withdraw. It does say the compact shall terminate if the Electoral College is abolished. Subsection 5 provides definitions because, from state to state, they have different ways of naming who is responsible for making these decisions. For example, is the chief election executive the Governor, the Secretary of State, or someone else responsible for making these determinations? Finally, changes to Article 15, on page 5, line 42, Section 14B relates just to specifically tidy up some language related to your existing "faith of elector" law. Subsection 1 is not a part of the 888 words of the interstate compact, but just mimics the law you already have that a presidential elector shall cast their vote for the presidential slate nominated by the party they are representing. Subsection 2 is what we were discussing with Assemblyman DeLong. It does not have to go back to a vote of the people for the Legislature to remove themselves from the compact. The state Legislature holds on to the power to do that themselves.

Assemblyman Hibbetts:

My follow-up is for Counsel Fernley. Section 14B, subsection 2, says, "The State of Nevada may withdraw from the National Popular Vote Compact by statute." Can we as a body change the *Nevada Constitution* by statute?

Bryan Fernley, Committee Counsel:

Generally not, but if that provision were included in the *Nevada Constitution*, then the *Nevada Constitution* would be allowing you to withdraw from that particular provision by statute. By having it in the *Nevada Constitution* you can withdraw from that one particular thing by statute, the *Nevada Constitution* would allow you to withdraw from that one particular part.

Assemblywoman Monroe-Moreno:

This matter first came before me my first session by Assemblyman Tyrone Thompson. At the time I thought, Oh, no way are we going to change the *Nevada Constitution* and go this way. But seeing what has happened in our country with elections and hearing from young people in our communities where we are encouraging them to register to vote and get involved, they see that sometimes their vote counts for my seat, counts for the mayor of their city, counts for the senator they send to Congress, but it does not always count for their presidential candidate. It is a hard story to tell why, and I wish I would have voted yes back then to have solved this problem. I will be voting yes on this, and I wish the Committee would join me. We are a country where one vote, one person should matter. Whether we like to admit it or not, elections are a popularity contest. It is who reaches their constituents, who has a better message, and who resonates with those constituents; when they vote for that person, then their vote should matter.

Since this is an Assembly joint resolution, we would be hearing this during this legislative session and then it would have to come back for the next legislative session, correct?

Assemblyman Watts:

Yes, that is correct. If the Legislature were to pass Assembly Joint Resolution 6 this session, it would come back to this body again for consideration in the 83rd Session in 2025. It would have to be passed again in identical form, at which point it would go on the 2026 midterm ballot for a vote of the people. This would be after the next presidential election, but before the 2028 presidential election for a vote of the people. If it was approved by a vote of the people in 2026, and then we also reach members of the compact totaling a majority of electoral votes, then it would take effect in 2028. Perhaps we get beat to the punch and states just rushed the door to join this, but I think probably we are looking at 2028 at the earliest for this.

Assemblywoman Monroe-Moreno:

Thank you for that. So, this ultimate decision will be the vote of the constituents we all represent. We can say we want it, but if the majority of our voters go to their ballot and do

not vote yes for it, then we stay with what we have, but we entrust our constituents to cast their votes to vote for us. Thank you for putting on the record that we can trust them to vote for or against this in 2026, to go into effect in 2028.

Assemblyman Watts:

I supported this the last time this concept was brought before this body in 2019 by the late Assemblyman Thompson, and I am a supporter of the concept in general. I will make that perfectly clear. Given some of that history I have discussed about the expansion of the right to vote and the breadth of that ability that has expanded to not only who can vote but how their vote is able to make decisions at the state, local, and even federal levels, I decided when I was going to bring this forward, I wanted this to be something there was a popular vote on. I wanted to ensure that the people themselves would make the decision on how they think the president of the United States should be elected, and that is exactly what would happen. I understand members are going to make their own decisions based on how they feel about the policy. But in my mind, ultimately, this is a decision about whether we want to send that to the people to decide how they think the president of the United States should be elected.

Chair Gorelow:

I really enjoyed the history lesson you gave at the beginning of your presentation. I was thinking about U.S. history and government classes in high school and remembered we have not always elected our presidents the way we currently do. In fact, I was thinking the vice president used to be the person who finished in second place rather than the way we do it now. Can you refresh my mind a little bit about the history of how we have changed elections?

Assemblyman Watts:

It would be my pleasure. Ms. Reavey, who has studied quite a few of these issues, may step in to add or correct anything if I forget. Originally when we held elections for president, the person who was runner-up became vice president. As folks who have watched *Hamilton* may recall, that led to a couple of interesting administrations. We actually changed the *U.S. Constitution* to provide for the election of the vice president, which led to the ticket system so you did not necessarily have a president and vice president of opposing parties. Here we elect the governor and lieutenant governor separately so there is a range of different ways to do things. Additionally, state legislatures originally determined U.S. senators for each state and that was another amendment which actually provided for direct election of senators by a popular vote.

When we talk about expanding the franchise to women, people of color, nonlandowners, and then ultimately young people, all were given the right to vote by changes to amendments. In the 1920s and the progressive era, there was an expansion of the franchise to initiatives to bring forward policy directly, which varies from state to state. Now there are referenda to challenge a decision a policymaking body brings forward and potentially repeal it, as well as recalls, which some of us in this body may be familiar with, are all brought forward to increase accountability of our government to the people. In terms of the election of the president, as Ms. Reavey stated, the Electoral College is very clearly established, but how

the electors are selected is not. In general, we have seen a continual trend of maintaining our democratic republic, right? People still elect their representatives and those are the folks who are interested to use their knowledge and experience to make most of the decisions, but we have continually expanded the ability of the people to select their representatives and hold them accountable more directly.

Eileen Reavey:

The only thing I will add is that the way we elect the president now is nothing like it was at the founding of our country. At that time, governors were able to appoint electors directly to the state legislatures. It was not until the tenth election for U.S. president that a majority of states used the winner-take-all law we are all familiar with today. It has been a constant evolution.

Assemblywoman Dickman:

Since we are doing the history lesson, when you mentioned that it was before this body before, was it a bill or was it a resolution? What happened to it?

Assemblyman Watts:

It was a bill. It was last before this body in 2019 during the 80th Session. It was passed by both houses of the Legislature and vetoed by the Governor, who I will say was a Democrat. This is, in my mind, not a partisan issue, and I am not bringing this forward out of partisan politics. I know there can be analyses and debates about this from a partisan perspective, but I would just like to make it clear that is not the reason driving me to bring it forward. I think I have laid out the reasons why I am passionate about the issue in the rest of my testimony.

Assemblywoman Monroe-Moreno:

You had said something about the way we elect presidents now was not how we did when the *U.S. Constitution* was made. I would like to remind everyone that we are a female majority, right? And when that *U.S. Constitution* was made, women could not vote, I could not sit here, and as a Black woman, I was just a piece of property. We as a country have matured, and we have expanded our election laws and voting laws to grow with who we are now. This is the right time to make the adjustments. We have seen there is a problem with how we elect our president. That is what we do in America. We learn from our mistakes. I thank you for bringing this back so I can correct the mistake I made.

Chair Gorelow:

Committee, are there any other questions? Seeing none, we will come to Carson City first for testimony in support of Assembly Joint Resolution 6.

Christopher Pearson, Secretary, National Popular Vote:

I would like to use my time to point out flaws in what you will hear from opponents since they struggle to argue against the merits of the National Popular Vote Compact. They will try to muddy the waters, hoping to confuse busy legislators. For example, at Michigan and Alaska committee hearings, we heard there was no such thing as a national vote count and that would make this proposal difficult to pull off. Fortunately, there is arithmetic.

Every state conducts a popular vote election and publishes results publicly [page 8, [Exhibit C](#)]. Federal law requires states to report them in a timely manner. The proposal in front of you depends simply on adding these totals together. Opponents say the national popular vote will force a Secretary of State in one state to judge vote totals in other states [page 9], but page 3, line 37, the language you are considering today in [Assembly Joint Resolution 6](#) says, "The chief election official of each member state shall treat as conclusive an official statement containing the number of popular votes in a state for each presidential slate"

Opponents will say national popular vote cannot work now that Maine uses a ranked choice ballot [page 17], but Nevada and other states will not have to wonder what the total is from Maine. After Maine concludes their ranked process, the final round results will be published. There is no guessing or estimating. You may hear passing this proposal will let California and New York control the outcome for the country. However, those two states only have 18 percent of the population and the margin for Democrats coming out of those states is balanced by what Republicans get out of Texas, Florida, and a handful of other states. In short, we have answers to all of the objections you will hear and are glad to provide them. I hope Nevada will add to the 16 states that have already enacted national popular vote and help strengthen the democratic process for our country.

Emily Persaud-Zamora, Executive Director, Silver State Voices:

Today we are in strong support of [A.J.R. 6](#). Simply put, we believe one person should mean one vote, and every vote should be counted equally. Nevada has made great strides over the past few years to modernize our election systems and ensure all voters have the ability to cast their ballots. Enacting the National Popular Vote Compact will strengthen Nevada's leadership in safe, secure, and equitable elections. We are hopeful this will move forward, and we look forward to voters having a say in their democracy. We thank Assemblyman Watts for bringing this bill. I urge your support.

Chair Gorelow:

Seeing no other testimony in support in Carson City, we will move to Las Vegas. Seeing no one in Las Vegas, we will move to callers in support of [A.J.R. 6](#).

Kristee Watson, Deputy Director, Nevada Conservation League:

I am calling on behalf of the Nevada Conservation League in support of [A.J.R. 6](#). For us, passing some laws to protect our environment depends upon open and fair elections. Typically, we believe the long-term health of our planet is inextricably linked to the health of our democracy. Nevada Conservation League supports Nevada joining the National Popular Vote Compact to ensure each vote cast would have equal value, potentially as soon as the 2028 presidential election. We urge the Committee to support this important bill.

[[Exhibit E](#) is a packet of letters in support submitted but not discussed and will become part of the record.]

Chair Gorelow:

Since there are no other callers to testify in support of A.J.R. 6, we will come back to Carson City to hear testimony in opposition.

**Yolanda Knaak, Legislative Club President, Nevada Federation of Republican Women;
and Private Citizen, Incline Village, Nevada:**

I have a letter to read from the Nevada Federation of Republican Women:

Dear Committee members,

Our organization was formed in 1961 with three clubs and has been growing ever since. We now have 20 clubs statewide and more than 1,600 members. The Nevada Federation of Republican Women passed a resolution in 2019 to oppose the National Popular Vote Interstate Compact and we do have our resolution listed at the bottom. The Electoral College balances the interest of high population and low population states. And without the Electoral College, the four most populous states, California, New York, Texas, and Florida would decide the fate of our country. And thus, the remaining 46 states which we are one of would have little control over their state's interests. Please vote no on A.J.R. 6.

Now as representing myself, I would like to say I believe that since there are four large states that are very populated, what would really happen is we would never see any candidates for president or vice president come here. If we do, it will be just minimal. And when whoever is elected president and vice president, they will be focused on pleasing the four large states. With their not coming, we are not going to have the money here and also not really getting the attention we need. The attention would go to the four largest states. I think this bill should be voted no on. [An email was submitted, [Exhibit F](#).]

Lynn Chapman, State Vice President, Nevada Families for Freedom:

According to Andrew Morrigan, who has a master of business administration from George Washington University and a master's from National Defense University:

If the president is elected based on a plurality, then the minority would not have a chance of having their candidate elected. Only the concerns and interests of more heavily populated areas such as the east and west coast cities would be represented. Interests in the minority and less populated areas would naturally be set aside and of little interest of future presidential candidates. Worse, the executive would be beholden and accountable solely to the majority.

He further stated:

Minority voter interest will no longer matter at the national level. Only the whims of the majority will and the result will be precisely why Socrates opposed a democratic form of government. Once a majority is established, it

finds a way to remain permanent and the majority class will become oppressive to the minority class. There will be no means to overturn the majority, no matter how skewered the majority's view may be.

Vote no on [A.J.R. 6](#). It is a very dangerous idea to put in our *Nevada Constitution* and I have been fighting this since it first came to our state. [Additional written testimony was submitted, [Exhibit G](#).]

Janine Hansen, State Chairman, Independent American Party of Nevada:

This body has reviewed this several times. The first time was in 2009. National popular vote would reduce Nevada to a flyover state in presidential elections. National popular vote sets up a system of betrayal of the voters. Under the National Popular Vote Compact, Nevada voters vote for the Democrat presidential candidate but if the national popular vote winner is determined to be a Republican or an independent, the Secretary of State of Nevada will be forced to betray the voters of Nevada, certifying presidential electors for a candidate who did not receive the popular vote in Nevada. This kind of betrayal will infuriate the voters of Nevada, and subject those who supported such a vote-stealing scheme to the wrath of their voters.

The National Popular Vote will hurt Democrats as well as Republicans. The National Popular Vote Compact has no minimum percentage for a candidate to be declared the national popular vote winner. What this means is in a three-way race, a candidate could win 35 percent of the vote or even less and be declared the winner. Up to 42 percent of Americans identify as independents. People are increasingly becoming disenchanted with both political parties. Other third parties would also deprive the majority parties of some of the national popular votes, including the Libertarian Party, the Independent American/Constitution Party, the Green Party, and others. Because the National Popular Vote Compact has no minimum percentage required of the national popular vote winner, we could elect a president with no national mandate.

In 1860 when Republican Abraham Lincoln was elected, there were actually four candidates in the race. Lincoln received 38 percent of the popular vote, Stephen A. Douglas, the Northern Democrat Party received 29.5 percent, John Breckinridge received 18 percent, and John Bell, 12 percent. We know what happened with the election of Lincoln. He had no national mandate, winning with only 39 percent of the popular vote. The stark division in the nation at that time resulted in a civil war and the bloodshed and death of 620,000 Americans. National popular vote creates instability, jeopardizing what the Electoral College has provided for over 200 years: the peaceful transfer of power. Please vote no. [Additional written testimony was submitted, [Exhibit H](#).]

Bob Russo, Private Citizen, Gardnerville, Nevada:

I oppose [A.J.R. 6](#), the National Popular Vote Compact, being voted into the *Nevada Constitution*. It would give the electoral votes from Nevada to the winner of the popular vote in presidential elections. If Nevada voted Democrat, but the winner of the popular vote was Republican, all of Nevada's electoral votes will go to the Republican presidential candidate

and vice versa, essentially eliminating any type of representative government in the state of Nevada. I will go on to say, too, this compact does an end run around the *Nevada Constitution* and the true intent of the Electoral College by giving state electoral votes to the winner of the popular vote and essentially eliminating the roles and duties of state electors. This compact will give a say to the majority in large, populated states in presidential elections and essentially eliminate the voice of those residing in smaller states, such as Nevada. The voice of rural America will likely be eliminated in presidential elections. I could see perhaps people in the rural states, they will just say, Why should I even bother to vote? I am not being represented. We are going to end up with both coasts representing the whole country and eliminating the whole middle part of America.

I think this is not a good deal at all. The other thing is, to my knowledge, no authority exists for determining the accuracy of the national popular vote for president. There could be disagreements between the states regarding who the winner is while no national authority is in place to settle state disputes. The National Popular Vote Compact is not the answer. It undermines a representative republic, and I believe it could eventually lead to a direct democracy, which James Madison describes unfavorably in the Federalist Papers No. 10. The Electoral College has worked well since the birth of our nation in providing a peaceful transfer of power. Why change something that has represented all Americans and has worked so well in the past? I urge you to vote against this amendment.

Lisa Partee, Private Citizen, Carson City, Nevada:

I have nothing prepared. I just want to say ditto to everyone who is opposing this bill for all the reasons stated. I am so against this.

Melissa Clement, Private Citizen, Reno, Nevada:

I am representing myself and my family. Nevada has always had an outsized level of power as compared to its population, whether it is Harry Reid, Paul Laxalt, Pat McCarran, or Yvanna Cancela. All of these people have got an outsized power that just does not make any sense. Why is that? That is because they have to come here. We have six electoral votes. It does not seem like a lot, but those six electoral votes make it so my three children come downstairs to the living room, and they are like, Which presidential candidate is in my living room today? Think about that. We are just so blessed to live in Nevada, and I guarantee it will not happen in the future. It will be New York and Los Angeles and Houston. You know what those areas do not have? They do not have mining; they do not have water issues; they do not have the things that make us fundamentally Nevadan.

Now, here is the thing: you are representing us, and I can think of no good reason for a Nevada legislator to say, Let us give our Nevada power away. Because that is what you will be doing. The four largest metropolitan areas are New York, Los Angeles, Houston, and Chicago. They will get a lot of play. Las Vegas is number 25; which is not going to get a lot of play and then you go down from there. Reno is number 82. This also, Assemblywoman Monroe-Moreno, works for the major parties because it gives both parties a reason to get

very worked up about during the presidential cycle because it is more exciting when we have more of an opportunity. I think it benefits all of us, but especially my children and me. I am asking you to vote against A.J.R. 6.

Richard Nagel, Private Citizen, Carson City, Nevada:

This circumvents something that was—as Hamilton said, it prevents the tyranny of the masses, and it circumvents that. We are throwing our power we have to shape an election out the window by getting rid of this. I see no benefit to this, to being subject to California or New York or New Jersey. That is just what is going to happen. We will be subjects. We will be passed over for any grants, any money coming into the state from the federal government because we will not count, and you are throwing that all away if you pass this. This is a lot of power. I mean, it is only six electoral votes, but it still gives us power. If you get rid of that, that is gone, and we will never get it back. Seriously think about what you are doing, okay? This may be an ideological thing that seems popular at the time, but remember this has been around for 250 years and we have a constitutional republic. We do not have mob rule. In that aspect, think about the constraints of what is happening and what is going on. We need to keep this intact and not depreciate or diminish it.

William Horn, Private Citizen, Reno, Nevada:

I am going to point out some facts. Nevada cannot alter the *U.S. Constitution*. The purpose of this resolution is to take the Legislature out of the mix and force the electors to be appointed based on your formula of what you call popular election. The *Nevada Constitution* is subordinate to the *U.S. Constitution* as was well read. Article II, Section 1, states that each state shall appoint in a manner as the Legislature may direct. This is part of the *U.S. Constitution*, not the *Nevada Constitution*. Any subsequent Legislature will have the right to determine how the electors are going to be selected. You are wasting your time because you cannot control through the *Nevada Constitution* the power the *U.S. Constitution* gives to the Legislature and therefore it is a bad bill for that reason. Further Article I, Section 10 says, "No State shall enter into any Treaty, Alliance, or confederation." What you are trying to do is enter into an alliance or some type of treaty with other states in order to get around the constitutional provisions that is the Electoral College and the right of the Legislature to control the manner of getting electors.

Betsy Strasburg, Private Citizen, Carson City, Nevada:

This legislative body was elected to represent the *Nevada Constitution* as is. I always get concerned when there is so much effort to change the *Constitution* after the fact, when it is not broken. I heard today enough states have come together. I do not want any compact to affect my vote. The sponsor said the compact will allocate votes. Any allocation method is always subjective from my 35 years of finance experiences and can have unintended consequences. A person can pick up votes in every state and not win any state under this proposal, especially a spoiler candidate with loads of money. If I recall correctly, Ross Perot won many votes and no electoral votes, which is designed to the right size for the size of population in every state. Nevada will never be the most populous state. It is a desert.

Nobody likes a desert. They like temperate climates. We are fine with the six electoral votes process. Since this Legislature represents Nevada, please do not water down the impact of our vote in our state.

Joy Trushenski, Private Citizen, Carson City, Nevada:

Please vote no on A.J.R. 6 to place the National Popular Vote Compact into the *Nevada Constitution*. The compact will make Nevada and other less-populated states meaningless in presidential elections and do away with all of Nevada's work to become a significant state in the presidential election. Only four states—California, Texas, New York, and Florida—will decide who the president will be. The Electoral College was set up to protect smaller populated states from the larger populated states to give the people in the smaller populated states a voice. Our Founding Fathers knew the importance of all states being counted in the major decision to elect a president of the United States. The national popular vote circumvents the Electoral College in our *U.S. Constitution* and will destroy our status as a swing state. This would be horrible not having a voice.

Shawn Meehan, Private Citizen, Minden, Nevada:

I am a retired Air Force master sergeant, and founder of Guard The Constitution. National popular vote has been one of my focus areas for quite a while. Assembly Joint Resolution 6 makes Nevada voters irrelevant. We have already talked about the big cities, so I am not going to waste your time. I want to reiterate this runs in opposition to the presidential primary law and the intent this body passed that Nevada is first in the West. National Popular Vote violates Article II, Section 1, Clause 2 of the *U.S. Constitution*, the "Elector's Appointment Clause." Amending the *Nevada Constitution* requires a vote of the people. That vote removes the plenipotentiary control of this Legislature. The U.S. Supreme Court opinion in *Hawke v. Smith*, in 1920, clearly shows this National Public Vote Compact amendment would violate this section of the *U.S. Constitution*. It also violates Article I, Section 10, Clause 3 of the *U.S. Constitution*, the Compact Clause. Thomas L. Jipping, deputy director of the Edwin Meese III Center for Legal and Judicial Studies wrote:

The National Popular Vote Compact requires congressional consent because it enhances the political power of compacting states at the expense of the noncompacting states. Although the National Popular Vote scheme would appear to retain the Electoral College system, it would be the cartel rather than the states that actually elects the president.

Under the presidential electors clause, we currently conduct 50 separate elections for president. Should fraud or tabulation errors occur within the state, those errors are contained within that state. National popular vote spreads such mistakes or fraud nationwide. A state legislature's power to decide how electors are appointed is delegated via the *Constitution*. Legislatures must comply with the purpose of the presidential elected system and the historical understandings around it. This Nevada Legislature is creating a time bomb that will detonate in litigation after the first such amendment becomes ratified. States select

presidents through electors with a sense of the people, and with respect to the sponsors, you all need to take a look at Federalist Paper No. 68 because you have got some things wrong. [Additional written testimony was submitted, [Exhibit I.](#)]

Casey Rodgers, Private Citizen, Minden, Nevada:

I like to speak differently and frankly. With everything that is coming through this legislative body right now, I see things a little bit differently. I got to sit in classrooms where kids were getting indoctrinated into left ideology, and with them coming out of college now and all the problems we are having in our current political lifestyles and situations and ideas and the fact kids do not want to work anymore, I really think this is just part of this body's deal trying to get a socialist economy into the state of Nevada, especially medically.

Chair Gorelow:

Can you put your testimony towards [A.J.R. 6](#)?

Casey Rodgers:

This is my concern. With all that happening, I just see everybody in the state voting one direction, and I think that is dangerous and with all the good work Mike Lindell and Seth Keshel are doing currently on proving that Dominion machines are fraud machines.

Chair Gorelow:

Can you put your testimony towards [A.J.R. 6](#)?

Casey Rodgers:

Everything I am saying has to do with it. Do we learn from our mistakes? Look at Venezuela. So let us not all vote one way in our state. I oppose that bill because of everything I just said.

Chair Gorelow:

For the record, my daughter has been looking for a job and nobody will hire her, so she is in college. Just wanted to point that out.

Julie Burke, Private Citizen, Reno, Nevada:

First of all, we are not a democracy; we are a constitutional republic. I also heard the word "selection," which was very disturbing. The electoral system was geniusly put in place by the founders so every citizen in the United States would have a vote that counts. Maybe some should go back and look at that. I also think that the states that are signing on to this compact or who have already signed onto it, just happened to be blue states. I want to say if there is so much concern for fair elections and the people's votes counting, where is the outcry regarding the past election fraud? Apparently, we are not supposed to mention the Dominion machines or the illegal votes and signature verification so we will pass on from that. It just seems the concern sways one way, and I believe this is a well-thought-out spin to manipulate the elections. This would never be accepted in sports, and it should not be accepted regarding elections. [Additional written testimony was submitted, [Exhibit J.](#)]

Gary Bowman, Private Citizen, Minden, Nevada:

I just do not have anything prepared. Just want to say ditto to everyone who is opposed to A.J.R. 6.

Jim DeGraffenreid, National Committeeman, Nevada Republican Party:

I am in opposition to A.J.R. 6 on behalf of the Nevada Republican Party. We are opposed to A.J.R. 6 as we have been in the multiple previous sessions where this has come up because we do not believe it makes sense for Nevada to work so hard to be first in the primary election process and then be irrelevant in the general election. Nor should Nevada surrender our voice to bigger states. I rarely have occasion to say this, but I felt then-Governor Sisolak stated the issue very well when he vetoed this legislation in 2019, and I wanted to put the closing remarks from his veto message on the record. The governor said:

While reasonable people may disagree as to whether the national popular vote should dictate the ultimate winners of Presidential and Vice Presidential electoral contests, this is a notion that does not reflect the delicately balanced system of government that issued from the larger debate at the Constitutional Convention of 1787 between supporters of the Virginia Plan and those of the New Jersey Plan, in which the interests of small states were pitted against the interests of large states. The result was a compromise government that tempered the proposal outlined by James Madison's Virginia Plan, favoring large states by granting vast powers to a new federal government, with the proposal forwarded by New Jersey delegate William Paterson, favoring small states by allowing each state to have one vote in Congress, regardless of the state's population (the New Jersey Plan).

The Agreement, which, when enacted, would require a signatory small state's electoral delegates to vote in support of the candidates for President and Vice President who win the national popular vote, could leave a sparsely populated Western state like Nevada with a greatly diminished voice in the outcome of national electoral contests.

Please protect Nevada's voice. Join Governor Sisolak and oppose A.J.R. 6.

Mariann Humphrey, Private Citizen, Carson City, Nevada:

I am opposing A.J.R. 6. Ninety-two percent of the people on the Nevada Electronic Legislative Information System do oppose it, and obviously we have a greater amount of people here today voicing their opinions opposing it. I would hate to see our elections be messed up. I just want to say I ditto everything all the opposition has spoken on, so I do not need to repeat it. We need to maybe really correct the way our elections are handled with voter ID and not having valid drop boxes and all that stuff and go back to the way our elections were designed maybe 20 years ago. Anyway, I do oppose it. I hope you guys will pay attention to what everybody said because you guys are supposed to represent us and not do just what you want to do.

Chair Gorelow:

We will go to Las Vegas now for testimony in opposition. Is there anybody in Las Vegas who would like to testify? Seeing no one, we will go to callers to testify in opposition.

Leslie Quinn, Private Citizen, Las Vegas, Nevada:

I could not find the room for A.J.R. 6, so I will do this on the phone. Please oppose A.J.R. 6. This places the National Popular Vote Compact into the *Nevada Constitution*. It would make Nevada a meaningless flyover state in presidential elections and do away with all Nevada's work to become significant in the presidential elections. California, Texas, New York, and Florida will decide who the president is. National popular vote circumvents the Electoral College in our *U.S. Constitution*. We Nevadans deserve the right to vote, and would appreciate you Legislators to vote for we, the people, not we, the government. Please honor us and oppose A.J.R. 6.

Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada:

The bill presenter did not talk about why the Founding Fathers implemented the Electoral College from the best of my knowledge. Correct me if I am wrong. We should look and see why they did that system. It is ironic how in 2016 news media outlets called *The Atlantic* talked about abolishing the Electoral College while back in 2012, they said we should keep the Electoral College. What a coincidence. And yet these are the same people who talked about how we need to expand the Supreme Court, but several years ago says, no, we should keep it at nine. It makes sense to have the Electoral College so people who live in rural states can have larger representation. If you look at Nebraska, if you look at Mississippi, the list goes on, and I do not really see how this system is racist. I mean, we have a lot of states that have a very high amount of power like Hawaii or even Nevada with a very significant nonwhite population. Those few nonwhite people can really make a huge difference in the state. I really do not see us really having a democracy. What we really have in this country is really a corporatist system where a handful of wealthy elites and billionaires or whatever have enormous amounts of power. It is like a cartel and just like this state to a lesser extent. Think about it. Before I yield my time, I do not think Casey's comments were irrelevant.

Katrin Ivanoff, Private Citizen, Las Vegas, Nevada:

The amendment of the *U.S Constitution* that gives the people the right to choose our representatives in Washington and took it away from the state legislature is the reason we turned our election to a popularity contest. Our representatives in Washington are no longer accountable to the state legislators. Because of that, most of them do not listen to us, their constituents. They listen to the big donors because the more money they get, the more commercials they can put on TV, which guarantees them the next election, since all of the laws that are protecting those big corporations that actually can vote to the expense of the people who are the actual voters, including those vaccine laws that protect the corporations. And even if your child died from the vaccine, you cannot even do that. One of the presenters said, "if the Electoral College is abolished." That quote shows me this resolution is an attempt to create a slippery slope on the road to abolishing the Electoral College. I also want to say ditto to everything that was said before me. Please vote no to this unconstitutional A.J.R. 6.

Oscar Williams, Private Citizen, Reno, Nevada:

As I recall, Assemblyman Watts testified we are a democratic republic. My understanding is we are, in fact, a constitutional republic. I believe Assemblyman Watts has misled this Committee in that regard. He doubled down on that when he said he was subjected to the interest in his support of this bill which clearly hearing testimony supported by other Democratic states or blue states. There is an issue here of Assemblyman Watts' candor to this Committee. [Additional written testimony was submitted, [Exhibit K](#).]

[[Exhibit L](#) is a packet of letters in opposition submitted but not discussed and will become part of the record.]

Chair Gorelow:

You need to keep your testimony to the bill. We are not disparaging members. Since there are no other callers, would anyone in Carson City like to testify in neutral?

Gabriel Di Chiara, Chief Deputy Secretary of State, Office of the Secretary of State:

I would just like to say our office has no position on this bill. We will ensure that whatever the law is we will follow it very closely. I would also like to put on the record that there is no evidence of any widespread voter fraud in the state of Nevada or anywhere else, and we are very confident in our election systems.

Chair Gorelow:

Is there anyone else in Carson City who would like to come to the table in neutral? Seeing no one, is there anyone in Las Vegas? Seeing no one, are there any callers to testify in neutral for [A.J.R. 6](#)? [There were none.]

Assemblyman Watts, would you like to make any final remarks on [A.J.R. 6](#)? [He did not.]

Committee members, do you have any final remarks?

Assemblywoman Dickman:

I was thinking about in some of the testimony there were references to the fact this violates the *U.S. Constitution*. I was wondering if there was any chance we could get the gentleman who said that back and then maybe we could get a legal opinion.

Chair Gorelow:

I would rather just have a legal opinion.

Bryan Fernley:

Yes, I can go through the issues that were raised and I will get an email out to the Committee quickly.

Chair Gorelow:

With that, we will close the hearing on Assembly Joint Resolution 6 and move on to Assembly Bill 394. This measure provides provisions governing elections. Assemblywoman Newby, you may begin when ready.

Assembly Bill 394: Revises provisions governing elections. (BDR 24-776)

Assemblywoman Sabra Newby, Assembly District No. 10:

I am here before you to present a Committee bill, Assembly Bill 394. It does two things. In section 1, subsection 3(j), it requires that the Secretary of State develop a procedure to be used if the abstract or certification of results of any election is not timely prepared and transmitted as required. These are the abstracts and certifications that are prepared pursuant to an election, so if that does not happen, this is a preparatory step so the Secretary of State already has a procedure to follow in that case. Then, in section 2, subsection 3 of the bill, we see the second thing the bill does, which is to require the counting of ballots is only performed once. There are two exceptions to that: an audit or a recount. As we all know, those are possibilities. I know saying it is a simple bill is the kiss of death, so I did not just say that. That is the presentation of A.B. 394.

Chair Gorelow:

Thank you very much. Committee members, do we have any questions?

Assemblyman Hibbetts:

In section 2, subsection 3, and section 3, subsection 3, which are the exact same sentence, "Except as otherwise required during an audit or recount, the counting of ballots may be performed only once." My question is, Why?

Assemblywoman Newby:

I believe it is because the provision of the law allows for the ballots to be counted once, and they do not necessarily need to be counted multiple times, wasting resources. The exception is if someone wants to do an audit or recount. I will phone a friend, and that friend will be from the Office of the Secretary of State, who I believe is rapidly approaching.

Mark Wlaschin, Deputy Secretary for Elections, Office of the Secretary of State:

The discussion about recounts, repeated recounts particularly, is something that has come up recently and really in the last 12 to 24 months. One of the concerns we have seen across the country about multiple recounts is, really, the more opportunities for an individual to touch a ballot, there become more opportunities for whether it is deliberate marking or inadvertent marking of those ballots that could otherwise jeopardize or invalidate the results initially gained through tabulation. I do not want to speak on their behalf, but it is my understanding from the Joint Interim Standing Committee on Legislative Operations and Elections, the idea is by limiting multiple recounts, this was intended to address that risk and reduce it.

Assemblyman Hibbetts:

I was not afforded the opportunity to visit the county election department, so my understanding of certain procedures is a little limited. With electronic voting, we do not actually touch anything. Is that correct? Or are you referring specifically to a county that might want to do paper ballots?

Mark Wlaschin:

Currently under Nevada law, we also have mail ballots. We do have a statute, and you are absolutely right that we are required to conduct a recount in the same way that the ballots were originally tabulated. With regards to the direct reporting equipment, those are exactly like you say, but for the mail ballots and/or also other paper ballots.

Assemblyman Hibbetts:

I appreciate the clarification.

Assemblyman DeLong:

Specifically, I wanted to ask a question about section 1, subsection 3(j), "The procedure to be used if the abstract or certification of results for any election is not timely . . ." Why is that needed?

Mark Wlaschin:

With regards to the original intent, again, I do not want to speak for the Interim Committee on Legislative Operations and Elections outside of saying that this is an ongoing discussion about why there is a need for regulations. There is an increasing risk to these sorts of events happening. A lot of discussions that have occurred in the election sphere over, really, the last two years have started to take on a preventative nature, trying to make sure that if something could happen, maybe we think about a way to address it in advance to ensure that there is a regulation or otherwise a means to address it.

Assemblyman DeLong:

Since it is talking about not being able to do something in a timely manner, am I correct in assuming it is getting to the fact on whether or not the election can be certified within the required time frame? Is that what we are trying to get at here?

Mark Wlaschin:

It is my understanding there are requirements. Under Nevada law as it exists, the canvass by the board of county commissioners must occur no later than the tenth day after the election. For a general election, there are other requirements, but yes.

Assemblyman DeLong:

Did we ever have this problem before we allowed mail-in ballots to be delivered after Election Day?

Mark Wlaschin:

This concern does not relate necessarily to mail ballots alone. This is a challenge that could have occurred even without them. When it comes to the transmission of the abstract and these documents, these are documents that possess the information relating to the electronic equipment and tabulations as well, not just the mail ballots. The document would have everything in it.

Assemblywoman Dickman:

I am still not understanding the impetus for this bill. What caused these to be necessary? I know the question has been asked, but I just did not understand the answer, I guess.

Gabriel Di Chiara, Chief Deputy Secretary of State, Office of the Secretary of State:

As Deputy Wlaschin said, the conduct of our elections has changed in relation to mail ballots, but also as technology has advanced. Increasingly, there have been questions about the way we conduct the elections and why we conduct elections that way. From the perspective of some folks in the public sphere, people have tried to get around the laws and regulations where previously there were no questions. Again, some of these questions were not asked before, and the Legislature has the right to create the statute and inform our office as to how we should conduct the elections. The Legislature saw fit to bring this bill forward, so we will do whatever it is the Legislature asks of us.

Assemblywoman Dickman:

When you say, "people have tried to get around," are you talking about people in election offices like registrars?

Gabriel Di Chiara:

I was not serving in the Secretary of State's Office during the time of the last election, but I was reading the news very closely, and there were a lot of people asking questions about what the law is and why the law is. Any number of news organizations had a number of explainers about how and why Nevada conducts elections the way it does. I believe, based on the existence of this bill, the Interim Committee on Legislative Operations and Elections found there needed to be some additional guardrails put around the conduct of those elections. Again, this comes from this body.

Mark Wlaschin:

Very similar to this situation, there was a situation we had in 2022 where one county in particular almost did not meet the canvass deadline, that the canvass must be conducted by the board of county commissioners no later than midnight on the tenth day after the election. As we approached, it was almost 10:30 p.m. that night, and I was deep in discussion about what that would look like. Should there have been guardrails very similar to what Chief Deputy Di Chiara just mentioned a moment ago? I do believe this is a continuation of those sorts of discussions, trying to be preventative to make sure the voters' will is heard and transmitted in the appropriate manners so as to not risk jeopardizing an election.

Assemblywoman Monroe-Moreno:

Would it be fair to say this bill is a response to things that were heard, to be more proactive in protecting votes and the process, and addressing problems that were seen in previous elections? It could be seen as a voter protection bill or a voter safety bill, not to clean up our system, but just tighten up the system.

Assemblywoman Newby:

I think you are exactly right. Sometimes we do things in reaction, but sometimes we want to be a little bit more thoughtful—and not reactive—and prepared. This is an area where we do not have regulations, and so just in case we need them at some point, it is always better to be prepared than unprepared.

Assemblywoman Monroe-Moreno:

Thank you to the Interim Committee on Legislative Operations and Elections for doing the work to look ahead and try to foresee problems that may not have happened but could happen, and we already have a solution for those.

Assemblywoman Dickman:

Would these regulations go to the Legislative Commission?

Bryan Fernley, Committee Counsel:

Yes, they would. All regulations are required to be submitted to the Legislative Counsel Bureau and submitted to the Legislative Commission unless there is an exemption from that. There is no exemption for these regulations, so yes, they would go through the Legislative Commission.

Chair Gorelow:

Committee, are there any other questions? Seeing none, we will go ahead and open up testimony in support of A.B. 394.

Izack Tenorio, representing Campaign Legal Center Action:

Campaign Legal Center Action is a national nonpartisan, nonprofit organization that works to protect and strengthen American democracy across all levels of government. We want to respectfully urge you to support A.B. 394 to protect the election, administration, and certification process from partisan manipulation to ensure it runs smoothly and efficiently for the people in Nevada. Nevada law is currently silent on the appropriate course of action. Should a county or city board fail to timely certify the results, they will leave a gaping hole in the current code. By requiring the Secretary of State to authorize procedures in these circumstances, this will prevent partisan officials from creating doubt about the validity of the election results. It will ensure the Secretary of State is able to timely certify the state's election results and meet crucial deadlines by the federal safe harbor deadline that governs presidential elections. Furthermore, by specifying that, outside standard audits or recounts, the ballots may only be counted once, this bill will prevent unreliable partisan investigations from undermining confidence in the election process. Nevada's standard postelection audits have worked for decades and include important safeguards to ensure reliability, transparency,

and accuracy. Most ad hoc audits lack these safeguards and do irreparable damage to the public's trust in election administration. It is vitally important to ensure this process for election administrations, especially those that occur in the crucial period after which voters have cast their ballots but are awaiting final results. We want to ensure elections are clear and not open to exploitation or manipulation by partisan actors. For this reason, Campaign Legal Center Action respectfully urges the Committee to support A.B. 394 to protect the postelection process to ensure Nevada has a current and fair election. [Additional written testimony was submitted, [Exhibit M.](#)]

Emily Persaud-Zamora, Executive Director, Silver State Voices:

Today we are here in strong support of Assembly Bill 394. The last few years have taught us anything can happen, and A.B. 394 ensures Nevada is prepared for any scenario. It is common sense to have procedures in place should election results not be officially certified on or after the tenth day after the election. We also support the language that the counting of ballots can only be performed once, excluding audit or recount. Both these policies ensure Nevada's elections are certified in a timely manner.

Chair Gorelow:

Seeing no one else here in Carson City to testify in support, we will go to Las Vegas.

Kerry Durmick, Nevada State Director, All Voting is Local:

We are an organization whose mission it is to fight for policies and legislative priorities that expand voter access. We are also a proud member of the Let Nevadans Vote coalition. We are here in strong support of A.B. 394. In the summer of 2022, I started working with local activists in Nye County after the nine county commissioners started the process of transitioning their election system to paper ballots and hand counting. When voters showed up in Nye County on the first day of early voting, many voters were confused to learn they had to request to use a voting machine instead of freely being given the option. Nye's transition to hand counting and limited machines caused confusion among their voters. Nevada's elections are not an experiment, and they should not be treated as such. Assembly Bill 394 would guarantee that the Secretary of State's Office could adopt a procedure to be used for the certification of results for any election that is not timely prepared and make sure the counting of ballots can only be performed once except, of course, during an audit or recount. We strongly encourage you to support A.B. 394, and I thank you so much for your time.

Aria Flores, Las Vegas Director, Chispa Nevada; and Private Citizen, Las Vegas, Nevada:

We are here, along with the Let Nevadans Vote coalition, in strong support of A.B. 394. Assembly Bill 394 reassures our fellow Nevadans are a part of our electoral process. Just last year, we saw several counties across the state bring forth antidemocracy resolutions that only served to obstruct and interfere with our electoral process. Multiple methods of counting ballots not only creates delays, but it also increases the likelihood of errors and confusion and would further spread disinformation about our certification process in our

state's elections. Assembly Bill 394 is a clear and effective procedure to strengthening our statewide electoral systems for an effective and secure count. I encourage you to support A.B. 394.

In a personal capacity, I would like to mention, for the record, preventative care or preventative actions are always better than reactive action. And, as previously mentioned, counting ballots at 10:30 at night is not effective for anyone. Anything that is preventative should be taken into consideration. And, in a personal capacity, I support A.B. 394.

[\[Exhibit N\]](#) in support was submitted but not discussed and will become part of the record.]

Chair Gorelow:

Seeing no one else to testify in support of A.B. 394 in Las Vegas, we will now hear from callers in support. [There were none.]

Is there anybody in Carson City who would like to come to the table in opposition? [There was no one.] We will move to Las Vegas for testimony in opposition of A.B. 394.

Mark F. Kampf, Clerk, Nye County:

Nye County, in 2022, tabulated all of their votes using paper ballots with a tabulator, and we used that as a methodology for counting our ballots. We also performed a parallel hand count of those ballots, and we learned a lot through that process. We learned the machines do not always count a vote that should be counted, but we also learned the tabulation process did give us effective results. As a county clerk, I believe I should be given the right to be able to check the results of work prior to sending that off. We ask for audits of our state boards; we ask for audits of our counties. There is no reason why I should not be able to do a self-audit so I have confidence in that vote. It does not need to be a complete hand count as we learned, but I would like the ability to be able to do that audit. If there is a concern about touching the ballots and putting marks on ballots, I think we should then look at how many people are touching ballots all over the state. Believe me, there are election workers who are touching ballots through the tabulation process everywhere you look, so that really is not a concern. We wore gloves, we used purple pens, we did everything we could according to the state regulations, and we were able to do an effective job and learn about the accuracy of our vote. I strongly oppose that provision of this bill. I do support the provision that provides for procedures in case the canvass is not done on time. [Additional written testimony was submitted, [Exhibit O](#).]

Chair Gorelow:

Is there anybody else in Las Vegas who would like to come to the table in opposition? [There was no one.] We will now take callers in opposition of Assembly Bill 394.

Katrin Ivanoff, Private Citizen, Las Vegas, Nevada:

I participated in the recount in Nye County for the 2022 election. We had to wear special gloves and use purple pens. Everything was done on camera. In case someone accidentally marked the ballot, the purple pen was obvious and did not change the original intent of the

ballot. If the timing is the problem, then we should go back to no mass mailing ballots and voting in our precinct. We had the results that very evening. Instead of making new laws that will have new problems, we should go back to the ones we know work. We know they work because we have received our election results within a few hours of closing the polls. For many years prior, legislators sneak in election changes in the nick of night without putting much thought to it. That is why we have problems with the elections now. Not because of anything else. Ballots counted once only guarantees mistakes will not be caught. This bill does exactly the opposite of what the presenters and supporters of this view are presenting they want to accomplish. On top of that, they mentioned the people counting at 1 a.m. in the middle of the night, which guarantees we have some very tired people counting. One-time counting will almost certainly guarantee mistakes will happen if this happens. I ditto what Mark Kampf said.

Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada:

I will ditto the previous two speakers.

[[Exhibit P](#) is written testimony that was submitted but not discussed and will become part of the record.]

Chair Gorelow:

Since there are no others to testify in opposition, we will open testimony in neutral for A.B. 394 here in Carson City. [There was none.] We will move to Las Vegas to open testimony in neutral for Assembly Bill 394. [There was none.] Are there callers to testify in neutral?

Oscar Williams, Private Citizen, Reno, Nevada:

I did not get in the queue early enough to voice my opinion in opposition. May I take an opportunity to oppose this?

Chair Gorelow:

Please go ahead and testify in opposition. We will reclassify.

Oscar Williams:

This bill restricts valid complaints and demands for recounts and methods to recount, enshrines lack of transparency and with that accountability. Voters trust that when people do things wrong, our elected officials and people who run our elections comply to the law properly and there is no recourse that hurts our confidence. This bill kind of put steroids on that whole thing. We have a right to individually—if it is a ballot initiative for, let us say, ranked choice voting that was up in 2022—complain and demand for a recount of that. In that there is the state law, *Nevada Revised Statutes* 293.404, subsection 3, "The recount must include a count and inspection of all ballots, including rejected ballots" It must determine whether a ballot is rejected and so on. What is the point of inspection? What does "inspection" mean? It is undefined, and when people file their complaints to demand for a recount of a ballot question, as they are allowed under statute, they get no response. They are delayed. They are rejected. You did not respond in time, we did not pay up in time, and

counties will not tell you what the costs are. Mr. Wlaschin has some understanding of this point, and maybe you can elaborate on it after the fact. Respond to me personally if you like. I am concerned that this law enshrines a certain little system that coincides with the other law of canvass which says to consider the changes resulting from the discovery of a clerical error. This bill limits the public's ability or the county's ability to investigate concerns about election integrity.

Chair Gorelow:

Since there are no more callers in neutral, would the presenter like to come back up?

Assemblywoman Newby:

Thank you for the opportunity to present the bill. I just wanted to thank the Secretary of State's Office and in closing say Nevada is known as one of the states that really does elections very well. I believe that Assembly Bill 394 has just a couple of tweaks that can even strengthen that process for us. It makes sense to me, and I urge you all to support it.

Chair Gorelow:

We appreciate you presenting the Interim Committee bill. With that, we will close the hearing on Assembly Bill 394, and we will move on to our next item on the agenda, which is public comment. [Public comment was heard.]

Committee members, are there any final words? [There were none.] With that, our meeting is adjourned [at 6:01 p.m.].

RESPECTFULLY SUBMITTED:

Kristi Howard
Committee Secretary

APPROVED BY:

Assemblywoman Michelle Gorelow, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is material, dated January 13, 2023, regarding the National Popular Vote presented by Eileen Reavey, National Grassroots Director, National Popular Vote, and Christopher Pearson, Secretary, National Popular Vote, in support of [Assembly Joint Resolution 6](#).

[Exhibit D](#) is a document titled, "Who Supports the National Popular Vote bill?", presented by Eileen Reavey, National Grassroots Director, National Popular Vote, in support of [Assembly Joint Resolution 6](#).

[Exhibit E](#) is a packet of letters in support of [Assembly Joint Resolution 6](#).

[Exhibit F](#) is an email dated April 5, 2023, submitted by Yolanda Knaak, Private Citizen, Incline Village, Nevada, in opposition to [Assembly Joint Resolution 6](#).

[Exhibit G](#) is testimony dated April 6, 2023, submitted by Lynn Chapman, State Vice President, Nevada Families for Freedom, in opposition to [Assembly Joint Resolution 6](#).

[Exhibit H](#) is testimony dated April 6, 2023, submitted by Janine Hansen, State Chairman, Independent American Party of Nevada, in opposition to [Assembly Joint Resolution 6](#).

[Exhibit I](#) is testimony submitted by Shawn Meehan, Private Citizen, Minden, Nevada, in opposition to [Assembly Joint Resolution 6](#).

[Exhibit J](#) is testimony dated April 5, 2023, submitted by Julie Burke, Private Citizen, Reno, Nevada, in opposition to [Assembly Joint Resolution 6](#).

[Exhibit K](#) is testimony dated April 6, 2023, submitted by Oscar Williams, Private Citizen, Reno, Nevada, in opposition to [Assembly Joint Resolution 6](#).

[Exhibit L](#) is a packet of letters in opposition to [Assembly Joint Resolution 6](#).

[Exhibit M](#) is testimony submitted by Izack Tenorio, representing Campaign Legal Center Action, in support of [Assembly Bill 394](#).

[Exhibit N](#) is testimony dated April 6, 2023, submitted by Susan Weikel, Sierra Club, Toiyabe Chapter, in support of [Assembly Bill 394](#).

[Exhibit O](#) is testimony submitted by Mark F. Kampf, Clerk, Nye County, in opposition to Assembly Bill 394.

[Exhibit P](#) is testimony dated April 6, 2023, submitted by Kim Clark, Private Citizen, in opposition to Assembly Bill 394.