

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

**Eighty-second Session
May 4, 2023**

The Senate Committee on Legislative Operations and Elections was called to order by Chair James Ohrenschall at 3:36 p.m. on Thursday, May 4, 2023, in Room 2149 of the Legislative Building, Carson City, 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 James Ohrenschall, Chair
Senator Skip Daly, Vice Chair
Senator Heidi Seevers Gansert
Senator Lisa Krasner

COMMITTEE MEMBERS ABSENT:

Senator Nicole J. Cannizzaro (Excused)

GUEST LEGISLATORS PRESENT:

Senator Robin Titus, Senatorial District No. 17
Assemblywoman Sabra Newby, Assembly District No. 10

STAFF MEMBERS PRESENT:

Nicolas Anthony, Policy Analyst
Jeff Koelemay, Counsel
Diane Rea, Committee Secretary

OTHERS PRESENT:

Alexis Jones
Catherine Nielsen, Executive Director, Nevada Governor's Council on
Developmental Disabilities
Dora Martinez, Disability Peer Action Coalition
Harrison Jones
Beth Jones

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Mark Wlaschin, Deputy for Elections, Office of the Secretary of State
Emily Persaud-Zamora, Executive Director, Silver State Voices
Annette Magnus, Director, Battle Born Progress
Izack Tenorio, Campaign Legal Center
Aria Flores, Chispa Nevada
Kerry Durmick, All Voting is Local Action
Barbara Jones
Jamie Davis
Ellen Gifford
Andrew Campbell

CHAIR OHRENSCHALL:

We will start with Assembly Joint Resolution (A.J.R.) 1 of the 81st Session.
Senator Robin Titus is with us to present the bill.

ASSEMBLY JOINT RESOLUTION 1 OF THE 81ST SESSION: Proposes to amend
the Nevada Constitution to add and revise terms relating to persons with
certain conditions for whose benefit certain public entities are supported
by the State. (BDR C-477)

SENATOR ROBIN TITUS (Senatorial District No. 17):

You know how things work in changing our Constitution. A resolution must
pass both Houses with the exact same language twice, two separate sessions,
and then goes on the ballot.

The resolution is straightforward. It changes four words in the
Nevada Constitution. These four words are insane, blind, deaf and dumb. Those
words are found in Article 13, section 1 of our Constitution. This section
requires a State to care for certain populations with disabilities who suffer from
mental illness.

The section reads like this:

Institutions for the benefit of the Insane, Blind and Deaf and Dumb,
and such other benevolent institutions as the public good may
require, shall be fostered and supported by the State, subject to
such regulations as may be prescribed by law.

I am aware when the Nevada Constitution was written, different terminologies were used to describe persons with disabilities or mental illness. More than 158 years after Nevada was admitted to the Union, it is time to give these words a critical look. We should change them to contemporary language that is not deemed to be discriminatory or narrow.

I propose we revise this terminology in the following manner: We change the word institution to entities, insane to persons with significant mental illness, blind to persons who are blind or visually impaired and deaf and dumb to persons who are deaf or hard of hearing.

The idea to change the language in our Constitution came from one of my constituents, Andrew Campbell, who will be joining us shortly. He works at Churchill County High School as an English teacher and has taught special education. When he brought the issue to my attention, most of his students had severe to profound disabilities. Mr. Campbell used to teach at the Washington School for the Deaf. He also taught American Sign Language as an after-school program and a class at Western Nevada College. He is aware of the needs of persons who are deaf or hard of hearing. He describes them as smart, dedicated folks in our society who work in banks and as teachers and engineers. His own grandfather worked in the aviation industry, designed aircraft in the 1930s and belonged to the deaf community. His grandfather was one of Boeing's first 100 employees to design an aircraft. I am grateful for Mr. Campbell who brought this to my attention.

The amendment is one page. The new term to start with is persons. We must stop categorizing people who suffer from an illness or disability by putting emphasis on the illness or disability. First and foremost, they are persons.

We are changing the term of institutions to entities per the recommendation of Nevada Department of Health and Human Services.

Calling a person who has a hearing loss dumb in our Constitution is offensive. Many people in our society are not completely deaf but suffer from different degrees of hearing loss. The definition in the Constitution is narrow and should say persons who are deaf or hard of hearing.

Insane is another one of those derogatory terms that need replacing. When you stigmatize an individual with such a term, it may lead to negative results in the

long run. Research shows stigmatizing a person with significant mental illness may create more barriers. People may face discrimination, prejudice when renting homes, applying for jobs or accessing mental health services. Stigmatized people are less likely to seek the help or treatment they need.

Using the term insane in our Constitution for people who suffer from a mental illness helps to perpetuate a stigma. It should be replaced with a more dignified term for persons with significant mental illness.

Blind is not necessarily a discriminative term, but it is too narrow. If a person is blind, he or she may suffer a complete or nearly complete vision loss. This term does not include any of the people who have visual impairment and may have difficulty with daily activities. Persons with visual impairments may be able to walk around with the adaptive training or use of assistive technology. This language should be updated to the term persons who are blind or visually impaired.

I have gone over the specific details of this amendment with the one line we want to change in our Constitution. We must do a better job in making sure we do not discriminate and stigmatize persons with disabilities or mental illness in our laws. A first step is to ensure none of this discriminative or derogatory language is in our Constitution. Assembly Joint Resolution 1 of the 81st Session will provide for that.

Keep in mind this resolution is just one step. It will not apply to *Nevada Revised Statutes* (NRS). If you do a search in our law library on the Legislative website, you will find 67 hits with the term insane.

I hope there will be another opportunity to clean up some of our statutes. I urge you to support A.J.R. 1 of the 81st Session to end the stigmatization of our citizens in the Nevada Constitution.

ALEXIS JONES:

I am 15 years old and a sophomore in high school attending Southeast Career Technical Academy. I am profoundly deaf and wear bright purple and pink hearing aids in both ears. I played varsity soccer and football. I am above a 4.0 grade point average. I am in student council and an ambassador student leader for my school. I am a member of the National Honor Society as well. I am part of the U.S. National Soccer Team and have attended various camps,

beginning when I was 14. I have testified on various bills since I was 11, including this bill 2 years ago, and am excited to be able to testify on the issue again.

Growing up, I have never been ashamed because I am deaf. I have embraced it by showing off my hearing aids. I have been belittled for being so open about it. I have been called dumb because I had a hearing disability and not been treated like the others because I looked a little different because of wearing hearing aids.

The words they said have and will stick with me the rest of my life. Knowing this type of terminology is still being used to refer to people with disabilities is discriminating. When I hear this it takes me right back to my elementary school days, crying alone in the bathroom because I was not understood.

Deaf and dumb was first coined by Aristotle, one of the most profound writers and literary philosophers of all time. He coined this term because of his belief that deaf people could not use their voice in the same way as hearing people which meant they were incapable of learning, speaking or even thinking the same way as normal people. This is not true. Just because we have a disability does not mean we are limited. We can do absolutely anything we put our mind to, except to hear. This can be dismissed by the incredible achievements I have done all before the age of 16, not to mention all the other deaf and hard of hearing people all over the world who have done absolutely remarkable things.

I strongly urge you to reconsider the terminology used in the Constitution and to pass this bill, not just for myself but for all the currently deaf and hard of hearing people, and for the future generations to ensure they do not have to go through the same things I and others have gone through.

CATHERINE NIELSEN (Executive Director, Nevada Governor's Council on Developmental Disabilities):

When communicating about disabilities, diseases and other health conditions, it is important to consider the unique needs and interests of people experiencing them as part of daily life. People with disabilities have been subject to the greatest violence and oppression of ableism. To eliminate ableism, a world must be built where all bodies and minds are respected, viewed as equal.

The Developmental Disabilities Act states disability is a natural part of the human experience that does not diminish the right of individuals with developmental and other disabilities to live independently, to exert control and choice over their own lives and to fully participate in and contribute to their communities through full integration and inclusion in economic, political, social, cultural and educational mainstream of United States society. People with the most significant disabilities are capable of independence, self-determination, productivity, integration and inclusion in all areas of community life. People with disabilities have been at the heart of ableism for far too long. It is time our Nevada Constitution is amended to provide respect to the individuals it represents.

DORA MARTINEZ (Disability Peer Action Coalition):

I am a person who is blind with a beautiful service dog named Sarge. We have been coming to the Legislature for a long time. We ditto the prior callers and thank Senator Robin Titus for campaigning for the change of language in our Constitution. Disability rights are human rights, and we must be inclusive. You cannot be inclusive without disability, cannot be diverse to the diversity and disability, equality and accessibility for all. Accessibility should not be an afterthought, rather from the get-go.

HARRISON JONES:

I turn 12 on Monday. I am hard of hearing. I was here two years ago testifying on the same bill.

Imagine yourself in this situation. You have a disability, and in a new school the people called you names for having that disability. Deaf and dumb is still the conversation which makes me feel the same way. I have a hard-of-hearing guide named Keith who is a mentor to me. He went through the same experience, name calling, when he was younger. Now he is a firefighter.

When I was testifying two years ago, I said I am the opposite of deaf and dumb, I am smart, and that is still true. I am a theater major at Somerset Academy, I am about to test for my brown belt in karate. I won third place in a foreign tournament, and I got accepted into a leadership program in my dojo. Does that sound deaf and dumb to you?

BETH JONES:

I am the proud mom of three kids, two of whom you just heard from. For the past 25 years, I have been an advocate for people with special needs. I earned my bachelor's and master's degrees in special education. Then as a mom, two of my children were identified as having a hearing loss and now I am the Executive Director of Nevada Hands and Voices, an organization which supports families with children who are deaf and hard of hearing.

Two years ago, when I first learned of A.J.R. 1 of the 81st Session, I asked my children if they would like to testify. I explained the term deaf and dumb was still used in the Constitution. They looked at me in shock and with tears in their eyes asked, is that how people talk about me? Dumb is not a word I allow in my home or in my classroom when I was a teacher, not about people.

In the past 25 years of working with and learning from both children and adults who are deaf and hard of hearing or developmentally delayed, dumb or insane are not words I would ever use to describe these individuals. Resilient, hardworking, logical, creative, bright—these are the words I would use.

Words matter, they can lift us up or tear us down. The word dumb is not allowed in our house, but I will say it here. The only dumb thing I would use in terms of this is that it has taken this long to rectify this outdated wording. Thank you for bringing this issue to light and for correcting it.

SENATOR TITUS:

Thank you for allowing me to present Assembly Joint Resolution 1 of the 81st Session. Mr. Campbell is the person who started this. He has testified three times in the past. I have had constituents ask me why I am wasting my time on this. You heard the testimony and know the why.

CHAIR OHRENSCHALL:

Additional written testimony ([Exhibit C](#)) in support of A.J.R. 1 of the 81st Session has been received from Chairman Jesse Law of the Clark County Republican Party.

I will close the hearing on Assembly Joint Resolution 1 of the 81st Session and open the hearing on Assembly Bill (A.B.) 394.

[ASSEMBLY BILL 394](#): Revises provisions governing elections. (BDR 24-776)

ASSEMBLYWOMAN SABRA NEWBY (Assembly District No. 10):

There are two things A.B. 394 does. In section 1, it requires the Secretary of State to develop regulations around a procedure in the case an abstract or certification of results for any election is not prepared or transmitted to the Secretary of State, as required in the NRS. My understanding is this has not happened yet, but that portion of the bill requires the Secretary of State's Office to develop regulations in case it does in the future. Sections 2 and 3 both have the same change—the counting of the ballots may be performed only once. There are two exceptions, when an audit or a recount is required or requested.

MARK WLASCHIN (Deputy for Elections, Office of the Secretary of State):

I will answer any questions regarding the process of implementation of this bill. The intent is one of a preemptive nature.

Over the last election cycle, there were several different events not anticipated in previous years. This bill is part of an ongoing effort across the State government when it comes to elections to make sure we address issues before they become a problem during an election cycle.

SENATOR DALY:

What the U.S. Congress did on the Electoral College deal clarified the counting or the canvassing. This is like the county commission canvassing, and I know they have had it across the Country where this is saying your job is ceremonial, administrative and the work has already been done. You are just confirming the information in there.

MR. WLASCHIN:

Yes, Senator. That is my understanding. This is clarifying, not necessarily the ministerial role of the county commissioners because that is in statute, but a certification of the vote. The Secretary of State must develop regulations in the event the abstract of the canvass does not get completed in time. It becomes a forcing function for us to work with the clerks and registrars to discuss what the process would look like to make sure from a legal standpoint we are prepared in the eventual chance it does occur. I do not have a reason to believe it will.

SENATOR DALY:

On the counting, only counting once: What are we trying to solve with that, delay tactics? Most counties use voting machines. The ballots come in and get counted through a machine. What problem are we trying to solve?

MR. WLASCHIN:

Many of the counties use mechanical voting machines. With the increase in the use of mail-in ballots, those mail-in ballots arrive and are tabulated through a mechanical tabulator. My understanding is by limiting the number of attempts to count ballots, you are limiting the number of times that hands touch each of the mail-in ballots as well. The more counts done, the greater the opportunity for an individual to draw a line on it and inadvertently or deliberately create an overvote which would alter the vote count for the race under our statutes. By limiting it to only those events prescribed by statute, recounts and audits, it would reduce the risk of any sort of either nefarious or accidental marking.

SENATOR SEEVERS GANSERT:

This bill has some interesting language that is not being changed. I am wondering why it is not cleaned up. I am looking at section 3, subsection 2, paragraph (b). It talks about the balance of the container box being found to exceed the number of names indicated on the rosters as having voted. The ballots must be replaced in the container or box, and a counting board officer, with his or her back turned to the container box, draws out a number of ballots equal to the excess. The excess ballots must be marked on the back with the words "Excess ballots are not counted."

I appreciate the explanations given for the language you are changing, but it seems like we have some antiquated language left in our voting statutes no one has addressed.

ASSEMBLYWOMAN NEWBY:

We concur. That is a valid point.

SENATOR SEEVERS GANSERT:

I know you have a lot of cleanup bills, and there are probably more, but I have never seen that language before because I have never really delved into the statute. I appreciate your explanation of why you count the ballots only once. I would have assumed that ballots are only counted once because that is our process unless they are being audited. I am still not sure if the language has

another meaning to it or not because if you have an audit or recount you are going to be counting the ballots again. I am not understanding why this has always been the assumption because it is how we tabulate our votes, by counting them once. There is a physical count, but there is also the tabulation of county. The language is a bit confusing.

MR. WLASCHIN:

It is ambiguous in our current laws, enough that there has been significant and increasing pressure not only across the Nation but here in Nevada for an initial count tabulation you refer to. Ballots come in and you would think you would tabulate the counts and that would be that, but there are nonstatutory audits proposed as well. This just clarifies and eliminates any doubt about how the process looks. We want to tabulate them except for a prescribed audit or recount. There is not the ability for a group, an individual or an election official to say we are going to continue to do my own internal recounts without the direction of the court as prescribed in statute.

SENATOR SEEVERS GANSERT:

There is a difference between counting a ballot once or counting the ballots once. Your intent is to count a ballot one time, or is it the process of counting ballots? Do you see the difference?

MR. WLASCHIN:

I believe I do, and I think the answer is yes to both. The goal is to count those ballots once and to have the counting process in its entirety conducted once as well, unless directed by a court to conduct a recount or audit already identified in statute.

SENATOR SEEVERS GANSERT:

I do not know if the language needs to be a bit clearer because it is making sure a ballot is counted one time, which I think is most important.

There is some other language talked about in section 3. The counting procedure must be public and continue without adjournment until completed. Are we doing that? Is our accounting procedure 100 percent public? Do they continue to count, without adjournment, to completion as provided in NRS 293C.362?

MR. WLASCHIN:

Excellent in catching that in NRS 293C.362. It is also on page 3 and section 2 under NRS 293.363 as well, with those being for the county elections and city elections. To answer your question directly, yes. We make sure the counting is a public process. It is something our county election officials are aware of.

Regarding continuing without adjournment, we have had a lot of discussion about that recently. Secretary of State Francisco Aguilar also has thoughts on that. The counting process relates to the first available day—we can start counting 15 days prior to the Election Day—when we are able to start processing mail-in ballots through 7 days after the election when we are required by statute to be finished with the counting process, which encompasses the period and does continue without adjournment.

I understand your concerns and we continue to look to see if we cannot clarify both in statute and regulation going forward. It is the Secretary's intent that we move forward with the tabulation of ballots in an expedited manner. With more mail-in ballots coming in on Election Day, we have noticed that creates a spike in those ballots arriving at the counties. We want to make sure we can get the results to the electorate and through the boards of county commissioners in a timely manner, which is something we continue to look at.

CHAIR OHRENSCHALL:

We need to look at cleaning up some of these statutes because looking back at the dates of enactment, there are some recent changes. Some go back to the days of the punch card ballots.

SENATOR KRASNER:

In section 1, subsection 3, paragraph (j), the regulations must prescribe, "The procedure to be used if the abstract or certification of results for any election is not timely prepared or transmitted as required pursuant to the provisions of this title." What is going to be the procedure to be used if the abstract or certification of results for any election is not timely prepared or transmitted as required?

ASSEMBLYWOMAN NEWBY:

The Secretary of State is going to develop those regulations and procedure through the regular rulemaking process that is open to the public and reviewed by the Legislative Commission.

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SENATOR KRASNER:

Those procedures have not yet been created?

MR. WLASCHIN:

That is correct.

EMILY PERSAUD-ZAMORA (Executive Director, Silver State Voices):

Silver State Voices and Let Nevadans Vote Coalition are in support of A.B. 394. The last few years have taught us anything can happen. Assembly Bill 394 ensures Nevada is prepared for any scenario. When there is uncertainty of how a process should work, it can lead to confusion. This confusion can be exploited by those who seek to undermine our democratic process. It is imperative to have procedures in place should election results not be officially certified by or on the tenth day after an election. We also support the language for counting of ballots only being performed once excluding audits or recounts. Election officials play a critical role and work tirelessly throughout the year to prepare for and administer elections. These policies work together to ensure Nevada's elections are certified promptly and efficiently.

ANNETTE MAGNUS (Director, Battle Born Progress):

On behalf of Battle Born Progress, I will read my written testimony ([Exhibit D](#)) in support of A.B. 394.

IZACK TENORIO (Campaign Legal Center):

On behalf of Campaign Legal Center Action, a national nonpartisan nonprofit organization that works to protect American democracy across all levels of government, we urge you to support A.B. 394 to protect the election administration and certification process from partisan manipulation and to ensure it runs smoothly and efficiently for the people of Nevada. Nevada law is silent on the appropriate course of action should a county or city board fail to timely certify the results, leaving a hole in the current code by requiring the Secretary of State to establish procedures for the circumstances. This bill prevents partisan officials from creating doubt about the validity of election results. It will ensure the Secretary of State is able to timely certify the election results and meet crucial federal safe harbor deadlines governing Presidential elections. It is important to ensure the process for election administration, especially those that occur in critical period after voters cast their ballots but are awaiting results. For this reason, Campaign Legal Center

Action respectfully urges the Committee to support A.B. 394 to protect the postelection process Nevada has in place.

ARIA FLORES (Chispa Nevada):

Let Nevadans Vote Coalition, a partner of Chispa Nevada, is in support of A.B. 394. The bill reassures our fellow Nevadans of our electoral process. Last year, we saw several counties across the State bringing forth antidemocracy resolutions which serve to obstruct and interfere with our electoral process. Multiple methods of counting ballots not only create delays, but also increase the likelihood of error, confusion and spreading disinformation about the certification process in our State election. Assembly Bill 394 is a clear and effective procedure to strengthen our Statewide electoral systems for an effective and secure count.

KERRY DURMICK (All Voting is Local Action):

As proud members of the Let Nevadans Vote Coalition, we are in support of A.B. 394. In the summer of 2022, I started working with local activists in Nye County after the Nye County Commission started the process of transitioning the election system to paper ballots and hand counting. When voters showed up in Nye County on the first day of early vote, many voters were confused to learn they had to request using the voting machine instead of being given the option. Nye's transition to hand counting and limited machines caused confusion among voters.

Nevada's elections are not an experiment and should not be treated as such. Assembly Bill 394 would guarantee the Secretary of State's Office adopted procedures to be used for the certification of results for any election not timely prepared and make sure counting of ballots can only be performed once, except as required during an audit or recount.

BARBARA JONES:

I see some good things in A.B. 394 but some confusing items. I am for the counting procedure to be public and without adjournment until completion. One county did not even know where its votes were being counted and it did not seem like there was much observation. It says the first opening was regulations for the Secretary of State to permanently regulate the control. The increased control bothers me. It looks like the counties and cities could choose their own system. I am going to have to say please vote no on this because I see it as not really solving much.

JAMIE DAVIS:

I am from Pahrump which is in Nye County. I am here today to support the Nye County Clerk, Mark Hemp. I am in opposition to A.B. 394 for the following reasons. My county is being discriminated against because we choose a parallel manual verification of the tabulation process, hand counting of paper ballots. We oppose machines and choose paper ballot voting. This is another way to eliminate the paper ballots Nye County voters choose to use. This is another step toward ranked choice voting that I oppose and consider bad for election integrity. This is another step to curb county clerks if their voters desire paper ballots. This bill destroys a check and balance system that provides secure elections.

ELLEN GIFFORD:

In reading A.B. 394, it proposes to amend NRS 293.247 which states the Secretary of State shall prescribe the forms for the declaration of candidacy and any petition which is filed pursuant to the election laws of this State. The statute goes on to list the items the Secretary of State's regulations must prescribe. This bill adds an item to the list addressing an additional procedure the bill's author believes should be addressed by the Secretary of State. It is easy to understand the intent here. This is in addition to the existing list of what the regulations must describe.

The bill also proposes to amend NRS 293.363 and NRS 293C.362, both of which address how the counting board shall prepare paper ballots for counting.

The bill proposes adding section 3, subsection 3 which states, "except as otherwise required during an audit or recount, the counting of ballots may be performed only once." It is not easy to understand the intent of this amendment. In fact, the statement just pops up out of nowhere as if it were misplaced.

Is this a general statement that applies to all ballots? If this applies only to paper ballots, I find myself leaning toward assuming the intent of this amendment is to prevent the hand count such as the one conducted in Nye County as an independent verification of the tabulation process. Paper ballots are anything but an experiment; they are how everyone voted before the pandemic.

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CHAIR OHRENSCHALL:

I will close the hearing on Assembly Bill 394 and I will reopen the hearing on A.J.R. 1 of the 81st Session to allow Senator Robin Titus's witness to speak.

ANDREW CAMPBELL:

I am a resident of Fallon and a citizen of Nevada for the past 15 years. I am here for the matter regarding persons, vocabulary and language related to them in a more respectful way. I contacted Dr. Robin Titus a couple of years ago and received some support which seems to be going through now that she is a Senator. I am grateful to have this opportunity to see this come to fruition, a hope I have had since I took the test to get my licensure as an educator in Nevada. I am asking for your support in this long process.

Remainder of page intentionally left blank; signature page to follow.

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CHAIR OHRENSCHALL:

I will reclose the hearing on A.J.R. 1 of the 81st Session. Seeing no further business for the Legislative Operations and Elections Committee for this day, we are adjourned at 4:34 p.m.

RESPECTFULLY SUBMITTED:

Diane Rea,
Committee Secretary

APPROVED BY:

Senator James Ohrenschall, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
A.J.R. 1 of the 81st Session	C	7	Senator James Ohrenschall	Document in support
A.B. 394	D	12	Annette Magnus / Battle Born Progress	Written testimony in support