

AJR 3 2001

Introduced on Feb 15, 2001
By Constitutional Amendments

Proposes to amend Nevada Constitution to revise provisions governing right to vote and to repeal certain obsolete provisions. (BDR C-1009)

Fiscal Note

Effect On Local Government: *No.*
Effect on the State: *No.*

Most Recent History Action: File No. 110.
(See full bill history below)

Hearings Assembly Constitutional Amendments Mar-06-2001 Amend, and do pass as amended
Senate Government Affairs May-25-2001 Do pass

Bill History

- Feb 15, 2001 Read first time. Referred to Committee on Constitutional Amendments. To printer.
- Feb 16, 2001 From printer. To committee.
- Mar 12, 2001 From committee: Amend, and do pass as amended.
- ✓ Mar 13, 2001 Read second time. Amended. (Amend. No. 28). To printer.
- ✓ Mar 14, 2001 From printer. To engrossment. Engrossed. First reprint. ✓ Read third time. Passed, as amended. Title approved, as amended. (Yeas: 39, Nays: None, Excused: 3). To Senate.
- Mar 15, 2001 In Senate. Read first time. Referred to Committee on Government Affairs. To committee.
- May 31, 2001 From committee: Do pass. Declared an emergency measure under the Constitution and placed on General File for next legislative day.
- ✓ Jun 01, 2001 Read third time. Passed. Title approved. (Yeas: 20, Nays: None, Not voting: 1). To Assembly. In Assembly. To enrollment.
- Jun 03, 2001 Enrolled and delivered to Secretary of State. File No. 110. **(Return to 2003 Session.)**



PREPARED BY
RESEARCH DIVISION
LEGISLATIVE COUNSEL BUREAU
Nonpartisan Staff of the Nevada State Legislature

BILL SUMMARY
71st REGULAR SESSION
OF THE NEVADA STATE LEGISLATURE

ASSEMBLY JOINT RESOLUTION NO. 3
(Enrolled)

Topic

Assembly Joint Resolution No. 3 proposes to amend the *Constitution of the State of Nevada* to revise or repeal certain antiquated provisions.

Summary

Currently, the Nevada Constitution provides that no “idiot or insane person” shall be entitled to vote. This measure proposes to delete this language and replace it with “person adjudicated mentally incompetent, unless restored to legal capacity.”

Additionally, A.J.R. 3 proposes to repeal Section 34 of Article 4, pertaining to the election of United States Senators by both houses of the Legislature in joint convention. This section of the constitution was nullified in 1913 with the adoption of the 17th Amendment to the *United States Constitution*, which provides for the direct, popular election of Senators.

Effective Date

If approved in identical form by the 2003 Session of the Nevada Legislature, this proposal will be submitted to the voters for final approval or disapproval at the 2004 General Election.

ASSEMBLY JOINT RESOLUTION NO. 3—COMMITTEE ON
CONSTITUTIONAL AMENDMENTS

FEBRUARY 15, 2001

Referred to Committee on Constitutional Amendments

SUMMARY—Proposes to amend Nevada Constitution to revise provisions governing right to vote. (BDR C-1009)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.



EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Constitution of the State of Nevada to revise provisions governing the right to vote.

1 RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA,
2 JOINTLY, That section 1 of article 2 of the Constitution of the State of
3 Nevada be amended to read as follows:
4 Section 1. All citizens of the United States (not laboring under the
5 disabilities named in this constitution) of the age of eighteen years and
6 upwards, who shall have actually, and not constructively, resided in the
7 state six months, and in the district or county thirty days next preceding
8 any election, shall be entitled to vote for all officers that now or hereafter
9 may be elected by the people, and upon all questions submitted to the
10 electors at such election; *provided*, that no person who has been or may be
11 convicted of treason or felony in any state or territory of the United States,
12 unless restored to civil rights, and no ~~idiot or insane~~ person *who has been*
13 *adjudicated mentally incompetent, unless restored to legal capacity*, shall
14 be entitled to the privilege of an elector. There shall be no denial of the
15 elective franchise at any election on account of sex. The legislature may
16 provide by law the conditions under which a citizen of the United States
17 who does not have the status of an elector in another state and who does
18 not meet the residence requirements of this section may vote in this state
19 for President and Vice President of the United States.



**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON CONSTITUTIONAL AMENDMENTS**

**Seventy-First Session
March 6, 2001**

The Committee on Constitutional Amendments was called to order at 5:00 p.m., on Tuesday, March 6, 2001. Chairman Bob Price presided in Room 3161 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Guest List. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Bob Price, Chairman
Mr. Harry Mortenson, Vice Chairman
Mr. Greg Brower
Ms. Merle Berman
Mr. Don Gustavson
Ms. Kathy McClain
Mr. John Ocegüera
Mr. David Parks

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Chris Giunchigliani, Assembly District 9

STAFF MEMBERS PRESENT:

Robert Erickson, Committee Policy Analyst
Linda Lee Nary, Committee Secretary

OTHERS PRESENT:

Verna Weber, Nevada Alliance for Mentally Ill of Northern Nevada
Lynda Dill, Administrative Office of the Courts

Assembly Joint Resolution 3: Proposes to amend Nevada Constitution to revise provisions governing right to vote. (BDR C-1009)

Assemblywoman Chris Giunchigliani spoke in favor of A.J.R. 3, which would delete the obsolete words "idiot" and "insane" from the Nevada Constitution. *Black's Law Dictionary* stated that the terms were archaic and were no longer used in legal or medical contexts. Though caution should be exercised when amending the Constitution, this was one area in which it might be worthwhile. The terminology Ms. Giunchigliani suggested for drafting was "a person who has been adjudicated mentally incompetent unless restored to legal capacity." Most states used this terminology.

Nevada still had two statutes, in NRS 278 and NRS 279, which referred to "idiot," but this committee only dealt with the constitutional issue. Only Iowa continued to employ this term in its constitution. Washington removed it from the voter qualification section in 1998 and used the phrase "all persons that are judicially declared mentally incompetent." A.J.R. 3 put Nevada "in standing" with what other states had done to eliminate archaic and offensive language. Ms. Giunchigliani urged the committee to take this into consideration. A letter of support from Rosetta Johnson (Exhibit C) was distributed.

How did county registrars of voters confirm that persons fit these categories, Assemblyman Brower asked. The understanding was that the court would notify, as they did with felon lists.

Verna Weber, a member of the Nevada Alliance for the Mentally Ill of Northern Nevada, spoke of her son who had schizophrenia and did vote. She did not wish to have him called "idiot."

Chairman Price introduced Amendment No. 28 (Exhibit D) to amend A.J.R. 3, page 1, after line 19, by inserting: "And be it further resolved, that Section 34 of Article 4 of the Constitution of the State of Nevada is hereby repealed." This obsolete section allowed it was the duty of the legislature to elect U.S. Senators, yet popular elections of U.S. Senators became part of the U.S. Constitution in 1913.

Ms. Giunchigliani asked about the preparation of enabling language for the purpose of the ballot question. Robert Erickson, Committee Policy Analyst, stated the statute permitted two ways: through resolution during the session, or through the Legislative Commission after session.

ASSEMBLYMEN MORTENSON MOVED TO AMEND AND DO PASS
A.J.R. 3.

ASSEMBLYMAN PARKS SECONDED.

THE MOTION CARRIED UNANIMOUSLY.

**Assembly Joint Resolution 13 of the 70th Session: Proposes to amend Nevada
Constitution to revise term of office of justice of the supreme court or
judge of district court who is appointed to fill vacancy. (BDR C-916)**

Lynda Dill, Management Analyst, Administrative Office of the Courts, requested that A.J.R. 13 of the Seventieth Session be passed and sent to the voters. Appointees to vacancies in the Supreme Court or district courts had been required to run for the office in the very next general election after appointment. This bill postponed that election until after the appointee had served 12 months, unless the appointment came within 12 months of the expiration of the elected term.

As there were no further questions or testimony, Chairman Price requested a motion for DO PASS.

ASSEMBLYMAN PARKS MOVED TO DO PASS A.J.R. 13 OF THE 70TH
SESSION.

ASSEMBLYMAN GUSTAVSON SECONDED.

THE MOTION CARRIED UNANIMOUSLY.

The Chair wished to continue discussion on A.J.R. 4 of the 70th Session, the constitutional rule against perpetuities. Assemblyman Mortenson voiced some concern based on the testimony delivered at the February 23, 2001, meeting but stated that possibly the statute covered the issues. If the trustee had the power to dissolve the trust over a period of years, it seemed this language should have been in the constitution, which could be repealed, not in a statute. He apologized that he was unprepared to discuss the resolution at this meeting.



**HUMAN
POTENTIAL
DEVELOPMENT**

*making recovery happen
for the seriously mentally ill*

March 6, 2001

To Assemblywoman Giunchigliani
Fax: 684-8888

The board of the Human Potential Development, Inc and I support bill
A.J.R.3.

It is high time to change outdated language and ideas concerning people with
a brain disorder. People with brain disorders are intelligent and these
disorders are treatable.

Thank you for correcting this misunderstanding/stigma with the changes you
recommend in this bill.

Sincerely,

Rosetta Johnson, M.P.A.
President, CEO

ASSEMBLY CONSTITUTIONAL AMENDMENTS
DATE: 3-6-1 ROOM: 3161 EXHIBIT C
SUBMITTED BY: CHRIS GIUNCHIGLIANI

Email: rjohn20378@aol.com

Amendment No. 28

Assembly Amendment to Assembly Joint Resolution No. 3	(BDR C-1009)
Proposed by: Committee on Constitutional Amendments	
Amendment Box:	
Resolves Conflicts with: N/A	
Amends:	Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend the resolution, page 1, after line 19, by inserting:

“And be it further

RESOLVED, That section 34 of article 4 of the Constitution of the State of Nevada is hereby repealed.

TEXT OF REPEALED SECTION

Sec. 34. Election of United States Senators. In all elections for United States Senators, such elections shall be held in joint convention of both Houses of the Legislature. It shall be the duty of the Legislature which convenes next preceding the expiration of the term of such

KCR/KAM

Date: 3/5/2001

A.J.R. No. 3—Proposes to amend Nevada Constitution to revise provisions governing right to vote.



ASSEMBLY CONSTITUTIONAL AMENDMENTS
DATE: 3-6-1 ROOM: 3161 EXHIBIT D
SUBMITTED BY: BOB PRICE, CHAIR

D 1/2
8

94
7

Senator, to elect his successor. If a vacancy in such Senatorial representation from any cause occur, it shall be the duty of the Legislature then in Session or at the succeeding Session thereof, to supply such vacancy[.] If the Legislature shall at any time as herein provided, fail to unite in a joint convention within twenty days after the commencement of the Session of the Legislature for the election [of] such Senator it shall be the duty of the Governor, by proclamation to convene the two Houses of the Legislature in joint convention, within not less than five days nor exceeding ten days from the publication of his proclamation, and the joint convention when so assembled shall proceed to elect the Senator as herein provided.”.

Amend the title of the resolution, second line, by deleting the period and inserting:

“and to repeal an obsolete provision relating to the election of United States Senators.”.

Amend the summary of the resolution to read as follows:

“SUMMARY—Proposes to amend Nevada Constitution to revise provisions governing right to vote and to repeal certain obsolete provisions. (BDR C-1009)”.

Assembly Bill No. 350—AN ACT making an appropriation for the partial support of Federally Qualified Community Health Centers that provide primary health care to uninsured residents of Nevada at reduced rates; and providing other matters properly relating thereto.

Assemblywoman Freeman moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblymen Williams, Bache, Arberry, Manendo, Ohrenschall, Anderson, Buckley, Chowning, Claborn, de Braga, Giunchigliani, Goldwater, Koivisto, Leslie, McClain, Ocegüera, Parks and Parnell:

Assembly Bill No. 351—AN ACT relating to education; requiring the board of trustees of a school district to obtain approval from the legislature to enter into certain contracts relating to the management of public schools; and providing other matters properly relating thereto.

Assemblyman Williams moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 183.

Assemblywoman Buckley moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 263.

Assemblywoman Buckley moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Williams, Parks, Brown, Cegavske, Chowning, de Braga, Freeman, Hettrick, Parnell and Smith:

Assembly Bill No. 352—AN ACT making an appropriation to the Boulder City Museum and Historical Association for the acquisition of new exhibits, maintenance of existing collections, computerization of the records of its collections and costs related to the display of historic artifacts; and providing other matters properly relating thereto.

Assemblyman Williams moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Joint Resolution No. 3.

Resolution read second time.

The following amendment was proposed by the Committee on Constitutional Amendments:

Amendment No. 28.

Amend the resolution, page 1, after line 19, by inserting:

“And be it further

RESOLVED, That section 34 of article 4 of the Constitution of the State of Nevada is hereby repealed.

TEXT OF REPEALED SECTION

Sec. 34. Election of United States Senators. In all elections for United States Senators, such elections shall be held in joint convention of both Houses of the Legislature. It shall be the duty of the Legislature which convenes next preceding the expiration of the term of such Senator, to elect his successor. If a vacancy in such Senatorial representation from any cause occur, it shall be the duty of the Legislature then in Session or at the succeeding Session thereof, to supply such vacancy[.] If the Legislature shall at any time as herein provided, fail to unite in a joint convention within twenty days after the commencement of the Session of the Legislature for the election [of] such Senator it shall be the duty of the Governor, by proclamation to convene the two Houses of the Legislature in joint convention, within not less than five days nor exceeding ten days from the publication of his proclamation, and the joint convention when so assembled shall proceed to elect the Senator as herein provided.”.

Amend the title of the resolution, second line, by deleting the period and inserting: “and to repeal an obsolete provision relating to the election of United States Senators.”.

Amend the summary of the resolution to read as follows:

“SUMMARY—Proposes to amend Nevada Constitution to revise provisions governing right to vote and to repeal certain obsolete provisions. (BDR C-1009)”

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblymen Giunchigliani and Price.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

REMARKS FROM THE FLOOR

Assemblywoman Buckley requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ANDERSON:

Thank you, Mr. Speaker. Several years ago I served on a national education board. During that time, a report dealing with a nation at risk first came out. It took public education to task for not meeting the needs of our society.

In 1986, the Carnegie Task Force on Teaching as a Profession asserted that world-class schools required a world-class teaching force and the assurance of a quality teacher in every classroom. It noted that while many excellent teachers were working in schools, their efforts often went unrecognized and unrewarded, and even worse; their knowledge and skills were underutilized.

The following year a National Board for Professional Teaching Standards was created to meet the task of defining outstanding teaching. Its founding chair was North Carolina Governor, James B. Hunt. He asserted that the mission of this board would be: To establish high and rigorous standards for what accomplished teachers should know and be able to do, to develop and operate a national voluntary system to assess and certify teachers who meet those standards, and to advance related educational reforms for the purpose of improving student learning in American Schools.

Those standards have been adopted in wide areas over the years. This year 4,494 teachers earned this recognition. Seated here today are 24 of my colleagues from the State of Nevada who meet this requirement. I find it emotional because my profession has been under attack for a long time. These teachers, these 24—two of which are from the math department in my own school—are the best. The year of hard work these teachers have

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT A.J.R. 3

ASSEMBLY JOINT RESOLUTION NO. 3—COMMITTEE ON
CONSTITUTIONAL AMENDMENTS

FEBRUARY 15, 2001

Referred to Committee on Constitutional Amendments

SUMMARY—Proposes to amend Nevada Constitution to revise provisions governing right to vote and to repeal certain obsolete provisions. (BDR C-1009)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.



EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Constitution of the State of Nevada to revise provisions governing the right to vote and to repeal an obsolete provision relating to the election of United States Senators.

1 RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA,
2 JOINTLY, That section 1 of article 2 of the Constitution of the State of
3 Nevada be amended to read as follows:
4 Section 1. All citizens of the United States (not laboring under the
5 disabilities named in this constitution) of the age of eighteen years and
6 upwards, who shall have actually, and not constructively, resided in the
7 state six months, and in the district or county thirty days next preceding
8 any election, shall be entitled to vote for all officers that now or hereafter
9 may be elected by the people, and upon all questions submitted to the
10 electors at such election; *provided*, that no person who has been or may be
11 convicted of treason or felony in any state or territory of the United States,
12 unless restored to civil rights, and no ~~idiot or insane~~ person *who has been*
13 *adjudicated mentally incompetent, unless restored to legal capacity*, shall
14 be entitled to the privilege of an elector. There shall be no denial of the
15 elective franchise at any election on account of sex. The legislature may
16 provide by law the conditions under which a citizen of the United States
17 who does not have the status of an elector in another state and who does
18 not meet the residence requirements of this section may vote in this state
19 for President and Vice President of the United States.
20 And be it further
21 RESOLVED, That section 34 of article 4 of the Constitution of the State
22 of Nevada is hereby repealed.



21

TEXT OF REPEALED SECTION

Sec. 34. Election of United States Senators. In all elections for United States Senators, such elections shall be held in joint convention of both Houses of the Legislature. It shall be the duty of the Legislature which convenes next preceding the expiration of the term of such Senator, to elect his successor. If a vacancy in such Senatorial representation from any cause occur, it shall be the duty of the Legislature then in Session or at the succeeding Session thereof, to supply such vacancy [.] If the Legislature shall at any time as herein provided, fail to unite in a joint convention within twenty days after the commencement of the Session of the Legislature for the election [of] such Senator it shall be the duty of the Governor, by proclamation to convene the two Houses of the Legislature in joint convention, within not less than five days nor exceeding ten days from the publication of his proclamation, and the joint convention when so assembled shall proceed to elect the Senator as herein provided.

30



SECOND READING AND AMENDMENT

Assembly Bill No. 31.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 36.

Amend the bill as a whole by deleting sec. 4 and adding a new section designated sec. 4, following sec. 3, to read as follows:

"Sec. 4. 1. There is hereby appropriated from the state general fund to the department of human resources for providing presumptive eligibility for Medicaid for women who are pregnant and for children who are less than 19 years of age and for providing presumptive eligibility for the children's health insurance program for children who are less than 19 years of age:

For the fiscal year 2001-2002\$5,414,773

For the fiscal year 2002-2003\$6,232,638

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years and reverts to the state general fund as soon as all payments of money committed have been made."

Amend the title of the bill, sixth line, by deleting "appropriations;" and inserting "an appropriation;".

Assemblywoman Koivisto moved the adoption of the amendment.

Remarks by Assemblywoman Koivisto.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 47.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Joint Resolution No. 3.

Resolution read third time.

Remarks by Assemblymen Giunchigliani, Goldwater and Anderson.

Roll call on Assembly Joint Resolution No. 3:

YEAS—39.

NAYS—None.

EXCUSED—Gibbons, Nolan, Ohrenschall—3.

Assembly Joint Resolution No. 3 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Resolution ordered transmitted to the Senate.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Angle, the privilege of the floor of the Assembly Chamber for this day was extended to Colleen Hughes.

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Cecilia Wilks.

On request of Assemblywoman Cegavske, the privilege of the floor of the Assembly Chamber for this day was extended to Mandi York, Dan McCue,

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-First Session
May 25, 2001**

The Senate Committee on Government Affairs was called to order by Chairman Ann O'Connell, at 2:33 p.m., on Friday, May 25, 2001, 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 at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Ann O'Connell, Chairman
Senator William J. Raggio, Vice Chairman
Senator Jon C. Porter
Senator Dina Titus
Senator Terry Care

COMMITTEE MEMBERS ABSENT:

Senator William R. O'Donnell (Excused)
Senator Joseph M. Neal, Jr. (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman David E. Goldwater, Clark County Assembly District No. 10
Assemblyman John C. Carpenter, Elko (part) County Assembly District No. 33
Assemblywoman Dawn Gibbons, Washoe County Assembly District No. 25
Assemblywoman Christina R. Giunchigliani, Clark County Assembly District No. 9

STAFF MEMBERS PRESENT:

Kimberly Marsh Guinasso, Committee Counsel
Juliann K. Jenson, Committee Policy Analyst
Alice Nevin, Committee Secretary

OTHERS PRESENT:

Warren B. Hardy II, Lobbyist, Associated Builders and Contractors, and City of Mesquite

Senate Committee on Government Affairs
May 25, 2001
Page 17

CHAIRMAN O'CONNELL:
I will open the hearing on S.B. 569.

SENATE BILL 569: Makes various changes relating to enhancements of telephone systems for reporting emergencies in counties. (BDR 20-1527)

Ms. JENSON:
Amendment No. 773 to S.B. 569 is an emergency measure introduced by Senator Amodei to aid Lyon County in their request to enhance their 911 services. When they presented it, there was a recent ruling of the Ninth Circuit Court of Appeals, and this is the language which needed to be added to the bill.

SENATOR CARE MOVED TO CONCUR WITH AMENDMENT NO. 773 TO S.B. 569.

SENATOR PORTER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS RAGGIO, NEAL, AND O'DONNELL WERE ABSENT FOR THE VOTE.)

CHAIRMAN O'CONNELL:
I will open the hearing on A.J.R. 3.

ASSEMBLY JOINT RESOLUTION 3: Proposes to amend Nevada Constitution to revise provisions governing right to vote and to repeal certain obsolete provisions. (BDR C-1009)

CHRISTINA R. GIUNCHIGLIANI, CLARK COUNTY ASSEMBLY DISTRICT No. 9:
I was doing research for redistricting, and I came across the word idiot as a reference point. It is an arcane word and has been removed from every constitution I researched in other states. It is understood the right of voting can be removed for that purpose; but I request the language be changed to "for a person that is adjudicated mentally incompetent" which is a kinder, gentler phrase. The terminology was also more reflective of what our courts recognize these days. The courts can always restore legal capacity and allow the return of the right to vote.

Senate Committee on Government Affairs
May 25, 2001
Page 18

There is a hearing to determine if a person should be declared mentally incompetent. The judge makes a ruling and the person is notified through the election department they are not allowed to be registered to vote. If that person, either through medication or some other way, regains their capacity to function within society, they can appeal to have their rights restored. This is not done in depression situations; it is for extreme mental capacity deficiencies.

SENATOR PORTER MOVED TO DO PASS A.J.R. 3.

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS RAGGIO, NEAL, AND O'DONNELL WERE ABSENT FOR THE VOTE.)

CHAIRMAN O'CONNELL:
I will adjourn the meeting at 3:37 p.m.

RESPECTFULLY SUBMITTED:



For Alice Nevin

Alice Nevin,
Committee Secretary

APPROVED BY:



Senator Ann O'Connell, Chairman

DATE: 9-1-01

16

2594

GENERAL FILE AND THIRD READING

Assembly Joint Resolution No. 3.

Resolution read third time.

Roll call on Assembly Joint Resolution No. 3:

YEAS—20.

NAYS—None.

NOT VOTING—Neal.

Assembly Joint Resolution No. 3 having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

Assembly Joint Resolution No. 5.

Resolution read third time.

Remarks by Senators James, O'Connell and O'Donnell.

Roll call on Assembly Joint Resolution No. 5:

YEAS—16.

NAYS—Coffin, Neal, Raggio, Rhoads, Shaffer—5.

Assembly Joint Resolution No. 5 having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

Assembly Joint Resolution No. 4 of the 70th Session.

Resolution read third time.

Roll call on Assembly Joint Resolution No. 4 of the 70th Session:

YEAS—21.

NAYS—None.

Assembly Joint Resolution No. 4 of the 70th Session having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

Assembly Bill No. 666.

Bill read third time.

The following amendment was proposed by Senator Townsend:

Amendment No. 1188.

Amend the bill as a whole by adding a new section designated sec. 43.3, following sec. 43, to read as follows:

“Sec. 43.3. Section 7 of Assembly Bill No. 444 of this session is hereby amended to read as follows:

Sec. 7. NRS 645.633 is hereby amended to read as follows:

645.633 1. The commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of:

~~1.~~ (a) Willfully using any trade name, service mark or insignia of membership in any real estate organization of which the licensee is not a member, without the legal right to do so.

~~2.~~ (b) Violating any order of the commission, any agreement with the division, any of the provisions of this chapter, chapter 116, 119, 119A, 119B, 645A or 645C of NRS or any regulation adopted thereunder.

~~3.~~ (c) Paying a commission, compensation or a finder's fee to any person for performing the services of a broker, broker-salesman or sales-

Senate Concurrent Resolution No. 53—Committee on
Commerce and Labor

FILE NUMBER 108

SENATE CONCURRENT RESOLUTION—Requesting the return to the Senate from the Governor's office of Senate Bill No. 372 of this session.

WHEREAS, Senate Bill No. 372 of this session has passed both houses of the 71st session of the Legislature, has been enrolled and delivered to the Governor; and

WHEREAS, Senate Bill No. 372 needs further legislative attention; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Governor of the State of Nevada is hereby respectfully requested to return Senate Bill No. 372 of this session to the Senate for further consideration; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Governor Kenny C. Guinn as soon as practicable.

Assembly Joint Resolution No. 4 of the 70th Session—
Assemblyman Goldwater

FILE NUMBER 109

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Constitution of the State of Nevada to repeal the constitutional rule against perpetuities.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That section 4 of article 15 of the Constitution of the State of Nevada is hereby repealed.

Assembly Joint Resolution No. 3—Committee on
Constitutional Amendments

FILE NUMBER 110

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Constitution of the State of Nevada to revise provisions governing the right to vote and to repeal an obsolete provision relating to the election of United States Senators.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That section 1 of article 2 of the Constitution of the State of Nevada be amended to read as follows:

Section 1. All citizens of the United States (not laboring under the disabilities named in this constitution) of the age of eighteen years and upwards, who shall have actually, and not constructively, resided in the state six months, and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now or hereafter may be elected by the people, and upon all questions submitted to the electors at such election; *provided*, that no person who has been or may be convicted of

treason or felony in any state or territory of the United States, unless restored to civil rights, and no ~~fidiot or insane~~ person *who has been adjudicated mentally incompetent, unless restored to legal capacity*, shall be entitled to the privilege of an elector. There shall be no denial of the elective franchise at any election on account of sex. The legislature may provide by law the conditions under which a citizen of the United States who does not have the status of an elector in another state and who does not meet the residence requirements of this section may vote in this state for President and Vice President of the United States.

And be it further

RESOLVED, That section 34 of article 4 of the Constitution of the State of Nevada is hereby repealed.

Assembly Joint Resolution No. 5—Assemblymen Gibbons, Berman, Humke, Anderson, Angle, Arberry, Bache, Beers, Claborn, Collins, Dini, Freeman, Giunchigliani, Goldwater, Koivisto, Lee, Manendo, McClain, Mortenson, Neighbors, Oceguela, Parks, Parnell, Price, Smith, Tiffany and Von Tobel

FILE NUMBER 111

ASSEMBLY JOINT RESOLUTION—Urging Congress to allow states to extend Daylight Saving Time to conserve energy and to promote public safety.

WHEREAS, Congress established Daylight Saving Time in 1966 with the passage of the Uniform Time Act of 1966, 15 U.S.C. 260 et seq., with Daylight Saving Time each year beginning at 2 a.m. on the last Sunday of April and ending at 2 a.m. on the last Sunday of October; and

WHEREAS, To save energy following the 1973 Arab Oil Embargo, Congress placed most of the nation on extended Daylight Saving Time, which lasted for 10 months in 1974 and for 8 months in 1975; and

WHEREAS, The United States Department of Transportation studied the results of extending Daylight Saving Time in 1974 and 1975 and found that in March and April of each of those years, Daylight Saving Time saved energy in the equivalent of 10,000 barrels of oil each day or a total of 600,000 barrels each year; and

WHEREAS, During that same period, because pedestrian injuries are more likely to occur in the dark than in daylight, it is estimated that 50 lives were saved and 2,000 injuries were prevented, as well as a savings of approximately \$28,000,000 in costs for traffic accidents; and

WHEREAS, In 1986, the date to begin Daylight Saving Time was changed to the first Sunday in April, rather than the last, resulting in an estimated savings of 300,000 barrels of oil each year; and

WHEREAS, In the average home, 25 percent of all electricity used is for lighting and for small appliances such as televisions and stereos and is directly affected by when the residents of the home go to bed and when they get up; and

WHEREAS, By moving the clock ahead, thereby reducing the period between sunset and bedtime by 1 hour, the average Nevada residence could decrease the amount of energy consumed; and

AJR 3* of the 71st Session

Introduced on: Feb 03, 2003

By Constitutional Amendments

Proposes to amend Nevada Constitution to revise provisions governing right to vote and to repeal certain obsolete provisions. (BDR C-1009)

Fiscal Notes

Effect on Local Government: No.

Effect on State: No.

Most Recent History Action: File No. 70.

(See full list below)

Past Hearings

Assembly Constitutional Amendments	Feb-28-2003	Discussion only
Assembly Constitutional Amendments	Mar-14-2003	Amend, and do pass as amended
Assembly Constitutional Amendments	Mar-28-2003	Discussion only
Assembly Constitutional Amendments	Apr-25-2003	Rescind
Assembly Constitutional Amendments	Apr-25-2003	Do pass
Senate Government Affairs	May-19-2003	Do pass

Votes

Assembly Final Passage	May-06	Yea 42,	Nay 0,	Excused 0,	Not Voting 0,	Absent 0
Senate Final Passage	May-23	Yea 21,	Nay 0,	Excused 0,	Not Voting 0,	Absent 0

Bill Text (PDF) [As Introduced](#) [As Enrolled](#)

Bill Text (HTML) [As Introduced](#) [As Enrolled](#)

Amendments (HTML)

Bill History

Feb 03, 2003 Returned from Secretary of State. Read first time. Referred to Committee on Constitutional Amendments. To printer. From printer. To committee.

Apr 30, 2003 From committee: Do pass.

May 01, 2003 Read second time.

May 02, 2003 Taken from General File. Placed on General File for next legislative day.

May 06, 2003 Read third time. Passed. Title approved. (Yeas: 42, Nays: None). To Senate.

May 09, 2003 In Senate. Read first time. Referred to Committee on Government Affairs. To committee.

May 21, 2003 From committee: Do pass. Placed on Second Reading File. Read second time.

May 23, 2003 Read third time. Passed. Title approved. (Yeas: 21, Nays: None) To Assembly.

May 24, 2003 In Assembly. To enrollment.

May 27, 2003 Enrolled and delivered to Secretary of State. File No. 70.

(On 2004 ballot.)



PREPARED BY
RESEARCH DIVISION
LEGISLATIVE COUNSEL BUREAU
Nonpartisan Staff of the Nevada State Legislature

BILL SUMMARY
72nd REGULAR SESSION
OF THE NEVADA STATE LEGISLATURE

**ASSEMBLY JOINT RESOLUTION NO. 3
OF THE 71ST SESSION**

Topic

Assembly Joint Resolution No. 3 of the 71st Session proposes to amend the *Constitution of the State of Nevada* to revise or repeal certain antiquated provisions.

Summary

Currently, the *Nevada Constitution* provides that no “idiot or insane person” shall be entitled to vote. This measure proposes to delete this language and replace it with “person adjudicated mentally incompetent, unless restored to legal capacity.”

Additionally, A.J.R. 3 of the 71st Session proposes to repeal Section 34 of Article 4, pertaining to the election of United States Senators by both houses of the Legislature in joint convention. This section of the constitution was nullified in 1913 with the adoption of the 17th Amendment to the *United States Constitution*, which provides for the direct, popular election of Senators.

Effective Date

If approved in identical form by this Legislature, the proposal will be submitted to the voters for final approval or disapproval at the 2004 General Election.

LEGISLATIVE HEARINGS

MINUTES AND EXHIBITS

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON CONSTITUTIONAL AMENDMENTS**

**Seventy-Second Session
February 28, 2003**

The Committee on Constitutional Amendments was called to order at 11:48 a.m., on Friday, February 28, 2003. Chairman Harry Mortenson presided in Room 3161 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Guest List. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Harry Mortenson, Chairman
Mr. Bob McCleary, Vice Chairman
Mr. Don Gustavson
Mr. William Horne
Mr. Rod Sherer

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Chris Giunchigliani, Clark County District No.9

STAFF MEMBERS PRESENT:

Michelle L. Van Geel, Committee Policy Analyst
Sheila Sease, Committee Secretary

OTHERS PRESENT:

Laura Mijanovich, Northern Nevada Coordinator, American Civil Liberties Union
Richard Siegel, President of Northern Nevada American Civil Liberties Union

Chairman Mortenson gave opening remarks and encouraged those present and interested in the bill that was being considered to sign in on the Guest List and requested that they check their position on the bill.

Chairman Mortenson explained that the Committee on Constitutional Amendments had submitted a bill draft request that concerned the minting of silver coins, which was identical to A.B. 188 of the 67th Legislative Session. Some of the proponents of the bill at that time were Assemblyman Jim Gibbons and Assemblyman Joe Dini. However, in 1993, it was the opinion of the Legal Division of the Legislative Counsel Bureau (LCB) that the bill was illegal. This Committee would probably consider the bill again after having sought another opinion from the Legal Division as to its legality.

Chairman Mortenson delineated the reason for the cancellation of the next proposed meeting on March 7, 2003. The Education Committee was holding a meeting in Las Vegas at 4:00 p.m. on that Friday, and thus pre-empted the Constitutional Amendments Committee meeting. According to Chairman Mortenson, Speaker Perkins had granted the Committee that block of time on Fridays after adjournment of the Assembly Floor Session for the balance of the 72nd Legislative Session.

Assembly Joint Resolution 3 of the 71st Session: Proposes to amend Nevada Constitution to revise provisions governing right to vote and to repeal certain obsolete provisions. (BDR C-1009)

As Chairman Mortenson opened the hearing on A.J.R. 3 of the 71st Legislative Session, he called upon Assemblywoman Chris Giunchigliani from District No. 9, to come to the witness table.

Assemblywoman Giunchigliani elucidated that A.J.R. 3 of the 71st Session was a constitutional amendment proposed in an attempt to amend Article 2, Section 1 of the *Constitution of the State of Nevada*, which currently stated that no "idiot or insane person" was entitled to vote. She advised the Committee that the proposal was to delete that language and replace it with a "person adjudicated mentally incompetent, unless restored to legal capacity." The proposal would also relate to repealing Section 34 of Article 4, pertaining to the election of United States Senators by both Houses in joint convention. Assemblywoman Giunchigliani continued that the particular section in question was nullified in 1913, with the adoption of the 17th Amendment to the *United States Constitution*, but that the Legal Division of LCB felt it was appropriate to eliminate that language.

Assemblywoman Giunchigliani noted that *Webster's Dictionary* defined an idiot as a person afflicted with a profound mental retardation. Because the term had largely fallen out of use in modern legal and medical language, she felt this was an appropriate time to have the voters make sure that we were not using an offensive word that no longer had a standing in our vocabulary. She went on to say that there were only four states that still used the term and two of those were in the process of amending their constitutions. Because we were more aware of mental illness in this nation, she did not want those individuals that were so afflicted to lose their rights unless they had been adjudicated as such.

Exhibit C was a letter that Assemblywoman Giunchigliani submitted from Rosetta Johnson, M.P.A., President, Human Potential Development, as an advocate for the mentally ill, who supported this resolution.

Chairman Mortenson indicated that last session he had discovered the language in the *Constitution of the State of Nevada* that pertained to the election of United States Senators by the Nevada State Legislature. At that time he brought the matter to the attention of former Constitutional Amendments Committee Chairman Bob Price, and it subsequently became a Committee bill.

Assemblyman Horne expressed concern to Assemblywoman Giunchigliani about line 15, which changed the language to "which has been adjudicated mentally incompetent" and stated that he felt it would be helpful to add "to vote" because the language was very broad in scope. Assemblywoman Giunchigliani replied that the language was in the portion of the *Constitution of the State of Nevada* that defined a qualified elector and she was sure that the Legal Division would feel that, because it was contained only within that section, it would not be necessary to add further qualifiers. If any changes were made in this resolution, the entire process would have to be begun all over again, she cautioned. By the passage in both Houses this session, it would then go to a vote of the people.

Chairman Mortenson then called on others wishing to testify, and Ms. Laura Mijanovich, Northern Nevada Coordinator, and Richard Siegel, President, American Civil Liberties Union of Nevada (ACLU), came to the witness table.

Dr. Siegel stated that the ACLU had the same problem with the language of the resolution as that expressed by Assemblyman Horne, in that the language was unenforceable. "Idiot" referred to old terminology for mentally retarded people and at this time no one was declared "insane," so in effect, no one was covered. "Incompetency" was used based on the inability to manage financial affairs, medical affairs, not being able to assist one's attorney in a court of law, or that a condition could lead to an involuntary civil commitment in a mental

hospital. Dr. Siegel continued that we did not have a process that would have a person reviewed for purposes of voting. A person in a mental institution, being under appropriate medication for serious mental illness, was likely to go into remission and become perfectly competent to vote. The American Civil Liberties Union (ACLU) wanted to see this issue restarted or to remove the language "and no idiot or insane person." He did not think we could be using the language. Even though other states had been doing it, he did not feel they were doing it appropriately. The ACLU backup position would be that the *Constitution of the State of Nevada* should narrow the language in such a way that citizens would be "adjudicated mentally incompetent" and that it would apply to the voting setting.

Laura Mijanovich, Northern Nevada Coordinator for the ACLU, commented that the right to vote was a fundamental right and could not be taken away without passing very high scrutiny. There were times when a person was committed for reasons that were not germane to voting privileges. Therefore, the best option would be to remove that language altogether, or have clear language that would narrowly tailor the standard to a very high threshold. When a fundamental right was implicated, it was better to err on the side of allowing a few delusional persons to vote, rather than take away this right.

Chairman Mortenson questioned the witnesses as to whether or not he understood correctly that there was no current provision in the law to define these people and keep them away from the polls.

Dr. Siegel answered that there were no effective means that would keep people who are insane or idiots out of the polling booth simply because these were terms that were not a certifiable category. Insane has not been used for decades by psychiatrists, and that was why the ACLU was addressing this. People were no longer certified as insane.

Ms. Mijanovich inserted that it could be depression, suicidal tendencies, self-mutilation, or other mental disorders that would fall into this category under the provision as stated.

Chairman Mortenson asked that if the *Nevada Constitution* were changed to use the words "adjudicated incompetent," if there were a provision in our law that would exclude someone from voting. Dr. Siegel of the ACLU replied to the affirmative and reiterated that the definition was too broad. It certainly would include everybody who had gone through the process in which a judge had ruled them to be involuntarily committed to a mental facility and under the care of the Division of Mental Health and Developmental Services. That would include everybody, the suicidal, and the depressed. The key was that they were a

danger to themselves and others. If the *Nevada Constitution* were changed to use the term "the mentally incompetent," they would all be covered until they were restored to legal capacity, which would mean they were no longer subject to that involuntary commitment. The concern of the ACLU, as expressed by Dr. Siegel, was that in guardianship provisions, we also made judgments of financial and medical incompetency that do involve mentally and/or physically incompetent persons.

Assemblywoman Giunchigliani expressed her appreciation to Dr. Siegel for pointing out that the ACLU did not get together with her, even last session. She understood the point he was making in his testimony. The states of Florida, Ohio, and Massachusetts worded their constitutions as "determined to be mentally incompetent for the purposes with respect to voting." Those states narrowed that category, and Dr. Siegel was absolutely correct that our wording might paint too broad a brush. Since we were amending the *Nevada Constitution*, she would rather do it right even if it meant starting over, Assemblywoman Giunchigliani stated. She was satisfied with that alternative if it were the Committee's wish. She encouraged the Legal Division to review the other states in an attempt to narrow the confines of the language. One could be adjudicated for many things that would not impact one's right to vote.

Chairman Mortenson pressed the question as to whether or not there was a mechanism to inform the registrar of voters that a person was judged incompetent. Assemblywoman Giunchigliani answered that she doubted such a mechanism existed, inasmuch as it was only in the past 4 years that felons were reported to the registrar of voters. However, if someone wanted to challenge a person for mental incompetence at the vote, that would be set aside and the court records could then be reviewed.

Assemblywoman Giunchigliani pointed out that *Nevada Revised Statutes* (NRS) 194.010, in referring to persons capable of committing crimes, included the issue of idiots, as well. She suggested that someone might want to address correcting that language as well, perhaps in the Judiciary Committee.

Dr. Siegel felt it was "significant that the most famous line in Supreme Court history was from Oliver Wendell Holmes, who had said some other stupid things." He had said, in ruling on sterilizing, "Three generations of idiots is enough." That was written in a decision to authorize the sterilization of mentally retarded people. He used the word "idiots" and it's probably one of the most infamous negative phrases associated with the name of Oliver Wendell Holmes.

Assemblyman Gustavson, suggested that because the Judiciary Committee had been discussing this issue on the death penalty issue and trying to define "mentally retarded" or "mentally insane," perhaps the Constitutional Amendments Committee could look at that definition.

Chairman Mortenson asked Dr. Siegel and Ms. Mijanovich if they had given the Committee a formal amendment. Dr. Siegel replied that they could get an amendment by Monday or Tuesday. Chairman Mortenson requested that the ACLU communicate that to the Committee secretary, Mrs. Sease.

The hearing was closed by Chairman Mortenson upon hearing no further comments. He stated that A.J.R. 3 of the 71st Session would be held over for future meetings while awaiting the ACLU amendment.

There being no other business, Chairman Mortenson adjourned the meeting at 12:14 p.m.

RESPECTFULLY SUBMITTED:

Sheila Sease
Committee Secretary

APPROVED BY:

Assemblyman Harry Mortenson, Chairman

DATE: _____

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Contact the Library at (775) 684-6827 or library@lcb.state.nv.us.



**HUMAN
POTENTIAL
DEVELOPMENT**

*making recovery happen
for the seriously mentally ill*

March 6, 2001

To Assemblywoman Giunchigliani
Fax: 684-8888

The board of the Human Potential Development, Inc and I support bill
A.J.R.3.

It is high time to change outdated language and ideas concerning people with
a brain disorder. People with brain disorders are intelligent and these
disorders are treatable.

Thank you for correcting this misunderstanding/stigma with the changes you
recommend. in this bill.

Sincerely,

Rosetta Johnson, M.P.A.
President, CEO

E-Mail: rjohn20378@aol.com

ASSEMBLY CONSTITUTIONAL AMENDMENTS

DATE: 2/24/03 ROOM: 3161 EXHIBIT C

SUBMITTED BY: ROSSETTA JOHNSON
Assemblywoman

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON CONSTITUTIONAL AMENDMENTS**

**Seventy-Second Session
March 14, 2003**

The Committee on Constitutional Amendments was called to order at 11:51 a.m., on Friday, March 14, 2003. Chairman Harry Mortenson presided in Room 3161 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Guest List. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Harry Mortenson, Chairman
Mr. Bob McCleary, Vice Chairman
Mr. Don Gustavson
Mr. William Horne
Mr. Rod Sherer

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Chris Giunchigliani, District No.9, Clark County
Assemblywoman Kathy McClain, District No.15, Clark County

STAFF MEMBERS PRESENT:

Michelle Van Geel, Committee Policy Analyst
Sheila Sease, Committee Secretary

OTHERS PRESENT:

Lesley Pittman, Vice President, Station Casinos, Inc.
Debbie Cahill, Nevada State Education Association

Chairman Mortenson gave opening remarks and encouraged those present and interested in the bills that were being considered to sign in on the Guest List and requested that they check their position regarding the bills.

Assembly Joint Resolution 3 of the 71st Session: Proposes to amend Nevada Constitution to revise provisions governing right to vote and to repeal certain obsolete provisions. (BDR C-1009)

Chairman Mortenson informed the Committee that they would first open a work session on A.J.R. 3 of the 71st Legislative Session, which was sponsored by Assemblywoman Chris Giunchigliani, District No. 9.

Assemblywoman Giunchigliani reminded the Committee that, during testimony on February 28, 2003, the American Civil Liberties Union (ACLU) brought concerns forward, as did Assemblyman Horne, that some people may be adjudicated mentally incompetent but their condition may not be related to their ability to vote. After checking four other states, she modeled her amendment based on the wording used by those states. The amended language would read, "...who is currently adjudicated mentally incompetent with respect to voting." She sent a facsimile to the ACLU and they felt the new language was acceptable, according to Assemblywoman Giunchigliani's secretary. She stated that Dr. Richard Siegel, President of Northern Nevada American Civil Liberties Union (ACLU), indicated that he would work with the courts to assure that, in these types of cases, it would be specified if someone was losing their voting rights. Assemblywoman Giunchigliani realized that the imposition of this amendment would start the legislative process over, but she hoped the new resolution would comply without affecting the rights of those adjudicated mentally incompetent.

Chairman Mortenson indicated he would entertain a motion to amend and do pass on the resolution.

ASSEMBLYMAN McCLEARY MOVED TO AMEND AND DO PASS
A.J.R. 3 OF THE 71ST LEGISLATIVE SESSION.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

The hearing on A.J.R. 3 of the 71st Legislative Session was then closed.

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON CONSTITUTIONAL AMENDMENTS**

**Seventy-Second Session
March 28, 2003**

The Committee on Constitutional Amendments was called to order at 11:53 a.m., on Friday, March 28, 2003. Chairman Harry Mortenson presided in Room 3161 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Guest List. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

Note: These minutes are compiled in the modified verbatim style. Bracketed material indicates language used to clarify and further describe testimony. Actions of the Committee are presented in the traditional legislative style.

COMMITTEE MEMBERS PRESENT:

Mr. Harry Mortenson, Chairman
Mr. Bob McCleary, Vice Chairman
Mr. Don Gustavson
Mr. Rod Sherer

COMMITTEE MEMBERS ABSENT:

Mr. William Horne, excused

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Michelle Van Geel, Committee Policy Analyst
Sheila Sease, Committee Secretary

OTHERS PRESENT:

The Honorable Deborah A. Agosti, Chief Justice, Nevada Supreme Court

Chairman Mortenson:

We do have one extra piece of business, Committee. Ms. Van Geel will explain it to us. We need to request a bill draft request (BDR), and she will explain why.

Michelle Van Geel, Committee Policy Analyst:

[Introduced herself.] I was contacted by Kim Morgan in the Legal Division. The measure that we passed out of here, A.J.R. 3 of the Seventy-first Legislative Session that proposes to amend the Constitution to revise the provisions governing the right to vote and repeal other obsolete language, was removing the "idiot and insane" from the *Constitution of the State of Nevada* and adding other language. Since that was a measure from last session and we're amending it, Legal would prefer to create a new bill, so it has a bill number from this session. We just need to officially request a bill draft request from Legal for that.

ASSEMBLYMAN McCLEARY MOVED FOR INTRODUCTION OF A
BDR TO AMEND A.J.R. 3 OF THE SEVENTY-FIRST LEGISLATIVE
SESSION.

ASSEMBLYMAN GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Horne was absent for the
vote.)

Chairman Mortenson:

We're adjourned [at 12:17 p.m.].

RESPECTFULLY SUBMITTED:

Sheila Sease
Committee Secretary

APPROVED BY:

Assemblyman Harry Mortenson, Chairman

DATE: _____

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON CONSTITUTIONAL AMENDMENTS**

**Seventy-Second Session
April 25, 2003**

The Committee on Constitutional Amendments was called to order at 12:01 p.m., on Friday, April 25, 2003. Chairman Harry Mortenson presided in Room 3161 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Guest List. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Harry Mortenson, Chairman
Mr. Bob McCleary, Vice Chairman
Mr. Don Gustavson
Mr. Rod Sherer

COMMITTEE MEMBERS ABSENT:

Mr. William Horne, excused

GUEST LEGISLATORS PRESENT:

Ms. Chris Giunchigliani, Assemblywoman, District No. 9

STAFF MEMBERS PRESENT:

Michelle L. Van Geel, Committee Policy Analyst
Kim Morgan, Chief Deputy, Legislative Counsel
Sheila Sease, Committee Secretary

OTHERS PRESENT:

Lucille Lusk, Cochairman, Nevada Concerned Citizens

Assembly Joint Resolution 14: Proposes to amend Nevada Constitution to revise provisions governing right to vote and to repeal certain obsolete provisions. (BDR C-1331)

Chairman Mortenson opened the hearing on A.J.R. 14, explaining that it might seem familiar as the Committee previously passed it with an amendment added. When a resolution was amended, the Legislative Counsel Bureau drafted a new resolution. Mr. Mortenson suggested the Committee members, upon reviewing it, would find it was exactly what they had passed.

Assemblyman Gustavson believed the Committee had inserted different language defining what "insane person" would be, rather than just eliminating "no idiot or insane person," so these persons would not be voting. Michelle Van Geel, Committee Policy Analyst, stated that Mr. Gustavson was correct. The original resolution had other language "as far as being adjudicated mentally incompetent," but the American Civil Liberties Union (ACLU) asked for language specifically for persons who were adjudicated mentally incompetent for the purposes of voting. However, the courts did not adjudicate for the purposes of voting. Upon speaking to the Legal Division and Assemblywoman Chris Giunchigliani, the sponsor of the resolution, the ACLU agreed to the drafted language.

Chairman Mortenson said he understood there was no provision for any medical authority to adjudicate a person incompetent to vote, and the registrar of voters did not receive any information indicating a person was incompetent, so why have it? That was the philosophy.

Assemblyman McCleary pointed out line 7, page 1, which stated "resides in the state for six months," and he questioned whether this was constitutional. He believed the Supreme Court had determined 30 days was the standard, but since federal law superceded state law, perhaps this would not matter. He regretted this was not caught before the resolution was redrafted.

Lucille Lusk, Cochairman, Nevada Concerned Citizens, noted a "big difference between stating that persons who have been adjudicated incompetent or insane will not be able to vote and saying that insane individuals will be able to vote." The action or consideration of this Committee previously was quite different, from her perspective, than what was now presented. She stated that, in fact, there was a procedure for adjudicating persons incompetent, and there was a procedure for adjudicating persons insane. The fact that there was currently no process for providing that information to the registrar of voters did not mean there could not be. A felon could not vote, and there was no process in place for the registrars to be informed of whom those felons were. But this

legislature was putting in place a process whereby the Department of Corrections would be required to notify the county clerks of those released from prisons. Ms. Lusk held that it made no sense that a person adjudicated incompetent or insane for all purposes of making their own decisions would then become voters. Further, she did not know about the six months but knew there had been discussion as to whether that was permissible.

The other portion of the resolution, she continued, dealt with the removal of some obsolete language regarding the election of U.S. Senators, which resulted from an amendment to the *Constitution of the United States*. In conclusion, she believed the Committee needed to pass the resolution with at least the portion dealing with eliminating the obsolete language, and, perhaps, the members wanted to address the six-month issue. From a perspective of logic and reason, she argued that it "was unwise to extend the privilege of an elector to individuals who have been adjudicated incompetent or insane."

Chairman Mortenson believed the six months should remain in law, and the *Constitution of the State of Nevada* should be a broad document, because it might change from six months to three months or to a year. Ms. Van Geel called the Legal Division for an opinion on including "incompetent" in the bill.

Assemblywoman Chris Giunchigliani, District No. 9, declared that even with the language "adjudicated mentally incompetent for the purposes of voting," the Legal Division acknowledged such a process did not exist, and so she agreed that it should be struck; that was why the bill was rewritten.

Chairman Mortenson agreed with Ms. Lusk's point that just because there was currently no process did not mean there could not be a process in the future. Assemblywoman Giunchigliani said that whichever way the Committee decided to go was fine with her, but she felt it was important that people knew that one could be adjudicated and "therefore broadly could have their rights restored." That was her original purpose for the language.

Perhaps, she said, the addition of the "adjudicated mentally incompetent with voting rights" was the key piece, because voting rights were not denied if a person was adjudicated mentally incompetent for purposes of voting. She suggested a return to the original wording that left off the words "for the purposes of voting." Ms. Van Geel read from the original copy that deleted "idiot or insane" and added, "who has been adjudicated mentally incompetent unless restored to legal capacity." Assemblywoman Giunchigliani felt that satisfied Ms. Lusk's question, which was fine with her, if that was the direction the Committee wished to take.

Assemblyman Gustavson agreed with Ms. Lusk and Assemblywoman Giunchigliani. Assemblyman Sherer agreed with them also, stating he favored the original wording. Chairman Mortenson expressed a likewise opinion. Assemblywoman Giunchigliani said that, if they preferred the original language, the bill would not start again, because the Committee already passed it once that way. Ms. Van Geel held that since the Committee had voted to amend and do pass A.J.R. 14, they needed to rescind that action, so that it would revert to its original form, and do pass the A.J.R. 3 of the 71st Session. They could then choose not to process A.J.R. 14.

Chairman Mortenson called for a motion.

ASSEMBLYMAN GUSTAVSON MOVED TO RESCIND THE AMENDMENT THE COMMITTEE MADE TO A.J.R. 3 OF THE 71ST SESSION.

ASSEMBLYMAN McCLEARY SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Horne was not present for the vote.)

Assembly Joint Resolution 3 of the 71st Session: Proposes to amend Nevada Constitution to revise provisions governing right to vote and to repeal certain obsolete provisions. (BDR C-1009)

ASSEMBLYMAN GUSTAVSON MOVED TO DO PASS A.J.R. 3 OF THE 71ST SESSION.

ASSEMBLYMAN SHERER SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Horne was not present for the vote.)

Chairman Mortenson closed the hearing on A.J.R. 14 and opened the hearing on A.J.R. 13.

Assembly Joint Resolution 13: Proposes to amend Nevada Constitution to provide that special session of Legislature may be convened by petition by Legislators. (BDR C-313)

Chairman Mortenson explained that this bill proposed special sessions could be called by the legislature, not involving the Governor, when two-thirds of both houses voted to do so. He stated there were 34 state legislatures that had the

ability to call a special session when deemed necessary. Nevada's Legislature was one of only 16 that could not. The philosophy was that the Legislature was an independent branch of the government that was supposed to be detached from the Administrative Branch, yet the Legislature must be called into special session by that Administrative Branch. It was Janine Hansen's idea that the Committee should pass both A.J.R. 13 and A.J.R. 7 simultaneously, and, if A.J.R. 7 passed the Senate, then A.J.R. 13 would be withdrawn. If A.J.R. 7 died in the Senate, then A.J.R. 13 would go ahead on its own. Everyone agreed to that.

Assemblyman Sherer asked if "petition" meant that the Legislature would do its own petition. Chairman Mortenson believed so and stated that when the petition was completed, it would go to the Secretary of State, who would then call the special session.

At this point, Kim Morgan, Chief Deputy, Legislative Counsel, arrived to clarify a question raised during the hearing on A.J.R. 14, regarding why the phrase "mentally incompetent" was not being used as it was in A.J.R. 3 of the 71st Session. Ms. Morgan remembered there was an intermediate step that was not visible here. She did not know there was a problem stating, "who has been adjudicated mentally incompetent" because courts did adjudicate mental incompetence. The policy concern that was raised was that a person could be mentally incompetent for several different reasons, many of which might not affect the ability to vote. As to the next set of language in A.J.R. 3 of the 71st Session, she reported the following:

Dr. Siegel of the ACLU had suggested "adjudicated mentally incompetent as to voting" or something that was narrower. The point was, courts clearly do not adjudicate people mentally incompetent as to voting, or many of us would be in trouble. Where we are left is going back to the broader category, which may give rise to some policy concerns. Clearly we can't do the middle ground suggestion as to voting or just take out the reference to "idiot" or "insane," because maybe it's okay to just be silent as to people who have been adjudicated mentally incompetent. Here, I guess, I am suggesting policy, but for your consideration, where is the standard on who is sane enough to vote? If these people are really that bad, they are probably in an institution and aren't voting anyway. Where is the line that you want to draw? This is the compromise that Brenda Erdoes and I came up with to give you something that you could act on that might work, which is, let's just take out the obsolete language and

have the *Constitution* be silent as to a prohibition in this area. But, there again, this is certainly a policy choice for you.

Assemblyman Gustavson asked if the word "insane" were deleted from the *Constitution*, could the "for voting purposes" be added legislatively? Ms. Morgan believed that would be difficult in that the *Constitution* described who had the right to vote, and the Legislature could not impose additional limitations.

Chairman Mortenson stated that he believed the Committee had made the policy decision that they felt that there should possibly be some limitation if a person was mentally incompetent, as they passed A.J.R. 3 of the 71st Session.

Returning to A.J.R. 13, Assemblyman McCleary asked if the Chair would entertain a motion. Chairman Mortenson felt it would be wise to amend A.J.R. 13 and do pass, with the amendment limiting special sessions to 20 days, if that was the will of the Committee. Assemblyman Gustavson agreed this was a good idea.

Assemblywoman Giunchigliani felt the *Constitution* should rarely be changed, and a petition for a special session should be specific. Lines 23 and 24, and lines 39 through 41 were, she said, expansive language because they declared "and such other legislative business as may be approved for consideration." This language gave her some discomfort.

Lucille Lusk commented that the new language permitted other business, and she recommended that it not be included. She agreed with Assemblywoman Giunchigliani that the business of the special session should be specific to the intent of the petition. At the same time, she continued, she felt the same limitation should be placed on any special session the Governor might call. Additionally, while there was an appearance of a 20-day limit in the existing language, she clarified that was actually a limit on compensation for the legislators. She wanted to equalize the number of days of the session and the number of days the legislators could be paid. She thought it would be best to use calendar days to stay consistent with other time limitations. Chairman Mortenson also preferred the consistency of using calendar days.

Ms. Van Geel created the language of the amendment as follows:

1. Page 2, lines 23 through 24: Delete "and such other legislative business as may be approved for consideration."

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-second Session
May 19, 2003**

The Senate Committee on Government Affairs was called to order by Chairman Ann O'Connell, at 2:39 p.m., on Monday, May 19, 2003, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Ann O'Connell, Chairman
Senator Sandra J. Tiffany, Vice Chairman
Senator William J. Raggio
Senator Randolph J. Townsend
Senator Warren B. Hardy II
Senator Dina Titus
Senator Terry Care

GUEST LEGISLATORS PRESENT:

Assemblywoman Christina R. Giunchigliani, Assembly District No. 9

STAFF MEMBERS PRESENT:

Robert E. Erickson, Research Director
Michael Stewart, Committee Policy Analyst
Scott Wasserman, Committee Counsel
Alice Nevin, Committee Secretary

OTHERS PRESENT:

The Honorable James W. Hardesty, Second Judicial District Court
Richard L. Siegel, Lobbyist, American Civil Liberties Union of Nevada

Senate Committee on Government Affairs
May 19, 2003
Page 5

litigants, lawyers, and the public to have to participate in the political process when it is unnecessary.

CHAIRMAN O'CONNELL:

I will close the hearing on A.J.R. 12 and open the hearing on A.J.R. 3 of the 71st Session.

ASSEMBLY JOINT RESOLUTION 3 OF THE SEVENTY-FIRST SESSION: Proposes to amend Nevada Constitution to revise provisions governing right to vote and to repeal certain obsolete provisions. (BDR C-1009)

MR. ERICKSON:

This is a constitutional amendment which was approved by the Legislature 2 years ago and is back again for its second time around. If it is approved this Legislative Session, it would go to the voters in the next general election. This proposal would do two things. It would amend the Nevada Constitution to revise the provisions governing the right to vote and it would take out the terms no "idiot or insane" person shall be entitled to the privilege of an elector.

I will yield to Assemblywoman Giunchigliani to explain this bill, but I would comment this is one case where we have repealed some antiquated provisions in the Nevada Constitution. I am referring to page 2 of the bill under "Text of Repealed Section."

ASSEMBLYWOMAN CHRISTINA R. GIUNCHIGLIANI, ASSEMBLY DISTRICT NO. 9:

This was part of the obsolete language discovered last Legislative Session. The Assembly committee considered removing the language completely, but we felt it would send the wrong message to the public who would not understand why we were removing the language. The committee reinstated the original language so if this passes the Senate, it would be the second passage, and it would go to the voters in November.

RICHARD L. SIEGEL, LOBBYIST, AMERICAN CIVIL LIBERTIES UNION OF NEVADA:

I have testified previously on this bill. We believe the language should be eliminated because there is no satisfactory alternative to simply eliminating the language. If you look at what is there now, "person who has been adjudicated mentally incompetent, unless restored to legal capacity," one example would be someone with multiple sclerosis who assigns guardianship, but still has the right

Senate Committee on Government Affairs
May 19, 2003
Page 6

to vote. We find people mentally incompetent for purposes of managing their finances, for medical decisions, and for criminal representation. In none of those decisions is a decision made on their right to vote. Another example would be a person with Alzheimer's disease. We routinely bring such people to the voting booth. We cannot assume the financial-, medical-, or criminal-representation decision is a decision that they shall not vote.

My biggest concern is we do not want to put a procedure in place that does anything more than eliminate the three words. We might invite a process, which would call on us to establish criteria on which retarded people cannot vote, which psychotic people cannot vote, or which people with Alzheimer's disease cannot vote. We know we cannot do that; there is not a judge in America who wants this kind of responsibility and this incompetency is a judicially invoked decision. I hope you will do what the Assembly did, take out the words "idiot or insane."

ASSEMBLYWOMAN GIUNCHIGLIANI:

The committee considered this issue and discussed adjudicating mentally incompetent persons with respect to voting. After researching this issue, we found people were not adjudicated mentally incompetent on the voting issue. It is not a finding that is made for the court, so it did not help us do what we wanted to do. After making the decision to disregard the language, the committee went back to the language passed last Legislative Session, so the process would move forward, rather than starting all over again.

CHAIRMAN O'CONNELL:

I will close the hearing on A.J.R. 3 of the 71st Session and entertain a motion on the bill.

SENATOR TIFFANY MOVED TO DO PASS A.J.R. 3 OF THE SEVENTY-FIRST SESSION.

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

* * * * *

FLOOR ACTIONS

AMENDMENTS ON SECOND READING FLOOR VOTES AND STATEMENTS OTHER ACTIONS

NOTE: THESE FLOOR ACTIONS ARE TAKEN FROM THE *DAILY JOURNALS* ([HTTP://WWW.LEG.STATE.NV.US/72ND/JOURNAL/](http://www.leg.state.nv.us/72nd/JOURNAL/)), WHICH ARE NOT THE OFFICIAL FINALIZED VERSIONS OF THE *JOURNALS*. CONSULT THE PRINT VERSION FOR THE OFFICIAL RECORD.

Floor Actions

February 3, 2003 *Assembly Daily Journal*

Excerpt:

STATE OF NEVADA
OFFICE OF THE SECRETARY OF STATE

January 23, 2003

JACQUELINE SNEDDON, *Chief Clerk Of The Assembly*, Legislative Building
DEAR MS. SNEDDON:

Pursuant to NRS 218.390(2) this office is transferring the following engrossed and enrolled copies to return to the Assembly for consideration in the 72nd Legislative Session:

Assembly Joint Resolution 3 (71st Session)
Assembly Joint Resolution 8 (71st Session)
Assembly Joint Resolution 12 (71st Session)
Assembly Joint Resolution 1 (17th Special Session)

If you have any questions in this regard, please do not hesitate to contact the Elections Division at (775) 684-5705.

Respectfully,
DEAN HELLER
Secretary of State

By: SUSAN BILYEU
Deputy Secretary for Elections

May 6, 2003 *Assembly Daily Journal*

Excerpt:

Assembly Joint Resolution No. 3 of the 71st Session.
Resolution read.
Remarks by Assemblyman Mortenson.
Roll call on Assembly Joint Resolution No. 3 of the 71st Session:
YEAS—42.
NAYS—None.

Assembly Joint Resolution No. 3 of the 71st Session having received a constitutional majority, Mr. Speaker pro Tempore declared it passed.
Resolution ordered transmitted to the Senate.

May 23, 2003 *Senate Daily Journal*

Excerpt:

Assembly Joint Resolution No. 3 of the 71st Session.
Resolution read third time.
Roll call on Assembly Joint Resolution No. 3 of the 71st Session:
YEAS—21.
NAYS—None.

Assembly Joint Resolution No. 3 of the 71st Session having received a constitutional majority, Madam President declared it passed.
Resolution ordered transmitted to the Assembly.

BILLS

A.J.R. 3 of the 71st Session

ASSEMBLY JOINT RESOLUTION NO. 3—COMMITTEE ON
CONSTITUTIONAL AMENDMENTS

FEBRUARY 15, 2001

Referred to Committee on Constitutional Amendments

SUMMARY—Proposes to amend Nevada Constitution to revise provisions governing right to vote and to repeal certain obsolete provisions. (BDR C-1009)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Constitution of the State of Nevada to revise provisions governing the right to vote and to repeal an obsolete provision relating to the election of United States Senators.

1 RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF
2 NEVADA, JOINTLY, That section 1 of article 2 of the Constitution of
3 the State of Nevada be amended to read as follows:
4 Section 1. All citizens of the United States (not laboring
5 under the disabilities named in this constitution) of the age of
6 eighteen years and upwards, who shall have actually, and not
7 constructively, resided in the state six months, and in the
8 district or county thirty days next preceding any election,
9 shall be entitled to vote for all officers that now or hereafter
10 may be elected by the people, and upon all questions
11 submitted to the electors at such election; *provided*, that no
12 person who has been or may be convicted of treason or felony
13 in any state or territory of the United States, unless restored to
14 civil rights, and no ~~idiot or insane~~ person *who has been*
15 *adjudicated mentally incompetent, unless restored to legal*
16 *capacity*, shall be entitled to the privilege of an elector. There
17 shall be no denial of the elective franchise at any election on
18 account of sex. The legislature may provide by law the
19 conditions under which a citizen of the United States who



1 does not have the status of an elector in another state and who
2 does not meet the residence requirements of this section may
3 vote in this state for President and Vice President of the
4 United States.
5 And be it further
6 RESOLVED, That section 34 of article 4 of the Constitution of the
7 State of Nevada is hereby repealed.

TEXT OF REPEALED SECTION

Sec. 34. Election of United States Senators. In all elections for United States Senators, such elections shall be held in joint convention of both Houses of the Legislature. It shall be the duty of the Legislature which convenes next preceding the expiration of the term of such Senator, to elect his successor. If a vacancy in such Senatorial representation from any cause occur, it shall be the duty of the Legislature then in Session or at the succeeding Session thereof, to supply such vacancy [.] If the Legislature shall at any time as herein provided, fail to unite in a joint convention within twenty days after the commencement of the Session of the Legislature for the election [of] such Senator it shall be the duty of the Governor, by proclamation to convene the two Houses of the Legislature in joint convention, within not less than five days nor exceeding ten days from the publication of his proclamation, and the joint convention when so assembled shall proceed to elect the Senator as herein provided.

③



approximately 40 percent of the total spending on prescription drugs in the United States; and

WHEREAS, According to the study, beneficiaries of Medicare with supplemental coverage for prescription drugs are at risk of losing such coverage, as evidenced by a decrease of coverage of prescription drugs offered by certain employers from 31 percent in 1997 to 24 percent in 2001 and a decrease of coverage offered under certain Medicare plans for prescription drugs from 65 percent in 1999 to 50 percent in 2002; and

WHEREAS, Many older or disabled residents of Nevada who receive Medicare benefits cannot afford supplemental coverage for prescription drugs; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the members of the 72nd Session of the Nevada Legislature urge Congress to provide a comprehensive universal plan for the uniform coverage of prescription drugs within the Medicare program that will provide beneficiaries of Medicare with stable access to prescription drugs on a voluntary basis, without extraordinary out-of-pocket costs and without unreasonable premiums, deductibles or copayments; and be it further

RESOLVED, That the program of prescription drug coverage for Medicare beneficiaries should have no requirement relating to the use of state funds now used for existing State programs; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Assembly Joint Resolution No. 3 of the 71st Session—Committee
 on Constitutional Amendments

FILE NUMBER 70

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Constitution of the State of Nevada to revise provisions governing the right to vote and to repeal an obsolete provision relating to the election of United States Senators.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That section 1 of article 2 of the Constitution of the State of Nevada be amended to read as follows:

Section 1. All citizens of the United States (not laboring under the disabilities named in this constitution) of the age of eighteen years and upwards, who shall have actually, and not constructively, resided in the state six months, and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now or hereafter may be elected by the people, and upon all questions submitted to the electors at such election; *provided*, that no person who has been or may be convicted of treason or felony in any state or territory of the United States, unless restored to civil rights, and no ~~idiot or insane~~ person *who has been adjudicated mentally incompetent, unless restored to legal capacity*, shall be entitled to the

privilege of an elector. There shall be no denial of the elective franchise at any election on account of sex. The legislature may provide by law the conditions under which a citizen of the United States who does not have the status of an elector in another state and who does not meet the residence requirements of this section may vote in this state for President and Vice President of the United States.

And be it further

RESOLVED, That section 34 of article 4 of the Constitution of the State of Nevada is hereby repealed.

Assembly Concurrent Resolution No. 28—Committee on
Elections, Procedures, and Ethics

FILE NUMBER 71

ASSEMBLY CONCURRENT RESOLUTION—Providing for the compensation of the clergy for services rendered to the Assembly and the Senate during the 72nd Session of the Nevada Legislature.

WHEREAS, The members of the 72nd Session of the Nevada Legislature have been sincerely appreciative of the daily religious services rendered by members of the clergy representing various denominations; and

WHEREAS, The invocations offered by the clergy provided inspiration and guidance for the members of the Nevada Legislature as they faced the challenges and demands of the 72nd Session; and

WHEREAS, A reasonable compensation should be provided for the clergy who performed such services; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the State Controller is authorized and directed to pay the sum of \$35 per service out of the Legislative Fund to the members of the clergy who have performed religious services for the Assembly and the Senate during the 72nd Session of the Nevada Legislature.

SUPPLEMENTAL MATERIALS

QUESTION NO. 7

Amendment to the *Nevada Constitution*
Assembly Joint Resolution No. 3 of the 71st Session

CONDENSATION (ballot question)

Shall the *Nevada Constitution* be amended to change the provision that prohibits an “idiot or insane person” from voting to refer instead to “a person who has been adjudicated mentally incompetent, unless restored to legal capacity” and to repeal a provision relating to the election of United States Senators by the Legislature that was made obsolete by the adoption of the 17th Amendment to the *United States Constitution*?

Yes..... 418,857
No..... 351,982

EXPLANATION

Currently, the *Nevada Constitution* provides that no “idiot or insane person” shall be entitled to vote in Nevada. The proposed amendment would change this language to provide that no person “who has been adjudicated mentally incompetent, unless restored to legal capacity,” shall be entitled to vote in Nevada. A “Yes” vote is a vote to remove language from Section 1, Article 2 of the *Nevada Constitution* referring to an idiot or insane person and replace it with language referring to persons who have been adjudicated mentally incompetent and not restored to legal capacity. A “No” vote is a vote to allow the language of this provision to remain unchanged.

Section 34, Article 4 of the *Nevada Constitution* provides that the Legislature shall elect Nevada’s United States Senators in joint convention of both Houses of the Legislature. This section also states that a vacancy in the office of United States Senator must be filled by the Legislature in a joint convention. The provision was nullified in 1913 with the adoption of the 17th Amendment to the *United States Constitution*, which provides for the direct, popular election of United States Senators and the filling of vacancies in the office of United States Senator through a vote of the people. A “Yes” vote is a vote to repeal this provision. A “No” vote is a vote to allow the language of this provision to remain unchanged.

ARGUMENTS FOR PASSAGE

The use of the terms “idiot” and “insane” is inaccurate and archaic and may be offensive to those individuals suffering from a brain disorder or mental illness. This terminology is no longer recognized in modern legal and medical contexts. Other States have removed this language from their Constitutions.

The second part of the question concerns the election of United States Senators through joint convention of the Legislature. This provision in the *Nevada Constitution* is obsolete

because the election and replacement of United States Senators by direct, popular election is provided for in the 17th Amendment to the *United States Constitution*. This provision in the *Nevada Constitution* should be removed because it is erroneous and confusing.

ARGUMENTS AGAINST PASSAGE

Amendment of the *Nevada Constitution* should be a rare undertaking and constitutional language should not be changed simply to respond to uses of terminology which may be outdated or go in and out of favor over time. Although the use of the terms “idiot” and “insane” could be seen as objectionable by modern standards, the use of this language was nevertheless acceptable at the time the provision was written, and the meaning of these terms is still clear. A change to this provision may also result in the State creating a legal classification of “mentally incompetent” for the purpose of voting. This legal classification could apply to persons whose mental conditions do not affect their ability to vote.

Although the *Nevada Constitution* provides for a different method of electing United States Senators, the direct, popular vote of United States Senators pursuant to the 17th Amendment to the *United States Constitution* has occurred since 1913. There is no need to repeal Section 34, Article 4 of the *Nevada Constitution* because that provision is obviously superseded by the 17th Amendment to the *United States Constitution*.

FISCAL NOTE

Financial Impact – No.

The proposal to amend the *Nevada Constitution* would revise the terminology of certain provisions governing the right to vote and repeal provisions concerning the election of United States Senators by the Legislature. Approval of this proposal would have no adverse fiscal impact.

FULL TEXT OF THE MEASURE

**Assembly Joint Resolution No. 3—Committee on
Constitutional Amendments**

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Constitution of the State of Nevada to revise provisions governing the right to vote and to repeal an obsolete provision relating to the election of United States Senators.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA,

JOINTLY, That section 1 of article 2 of the Constitution of the State of Nevada be amended to read as follows:

Section 1. All citizens of the United States (not laboring under the disabilities named in this constitution) of the age of eighteen years and upwards, who shall have actually, and not constructively, resided in the state six months, and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now or hereafter may be elected by the people, and upon all questions submitted to the electors at such election; *provided*, that no person who has been or may be convicted of treason or felony in any state or territory of the United States, unless restored to civil rights, and no ~~[idiot or insane]~~ person *who has been adjudicated mentally incompetent, unless restored to legal capacity*, shall be entitled to the privilege of an elector. There shall be no denial of the elective franchise at any election on account of sex. The legislature may provide by law the conditions under which a citizen of the United States who does not have the status of an elector in another state and who does not meet the residence requirements of this section may vote in this state for President and Vice President of the United States.

And be it further

RESOLVED, That section 34 of article 4 of the Constitution of the State of Nevada is hereby repealed.