NEVADA LEGISLATURE
JOINT INTERIM STANDING COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS

(*Nevada Revised Statutes* [NRS] 218E.320)

DRAFT MINUTES

April 19, 2024

The third meeting of the Joint Interim Standing Committee on Legislative Operations and Elections for the 2023–2024 Interim was held on Friday, April 19, 2024, at 9 a.m. in Room 3138, Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401, Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada.

The agenda, minutes, meeting materials, and audio or video recording of the meeting are available on the Committee's [meeting page](#). The audio or video recording may also be found at https://www.leg.state.nv.us/Video/. Copies of the audio or video record can be obtained through the Publications Office of the Legislative Counsel Bureau (LCB) (publications@lcb.state.nv.us or 775/684-6835).

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator James Ohrenschall, Chair
Assemblywoman Erica Mosca, Vice Chair
Senator Skip Daly

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Assemblywoman Cecelia González
Assemblyman Brian Hibbetts
Assemblywoman Brittney Miller

COMMITTEE MEMBERS ATTENDING REMOTELY:

Senator Heidi Seevers Gansert
Assemblywoman Jill Dickman

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Nicolas C. Anthony, Director
Haley Proehl, Senior Policy Analyst/Geographic Information Systems (GIS) Specialist, Research Division
Bonnie Borda Hoffecker, Research Policy Assistant, Research Division
Heidi Chlarson, Chief Deputy Legislative Counsel, Legal Division
Asher Killian, Legislative Counsel, Legal Division
Tara Zimmerman, Principal Deputy Legislative Counsel, Legal Division

Items taken out of sequence during the meeting have been placed in agenda order.

[Indicate a summary of comments.]

AGENDA ITEM I—OPENING REMARKS

Chair Ohrenschall:

Good morning. I want to welcome everyone to this morning's meeting of the Interim Committee on Legislative Operations and Elections (LOE). I believe we have all members present, but one member is running a bit late.

[Chair Ohrenschall reviewed testimony guidelines.]

AGENDA ITEM II—PUBLIC COMMENT

Chair Ohrenschall:

We will now move to our first session of public comment here in Carson City. Is there anyone who wishes to make public comment? I am not seeing anyone up here in Carson City. Down at the Sawyer building, is there anyone who wishes to make public comment? I am not seeing anyone come forward down in Las Vegas.

Broadcasting, is there anyone on the phone lines who wishes to make public comment?

Broadcast and Production Services (BPS):

Thank you, Chair. If you would like to provide public comment, please press * nine now to take your place in the queue.

Oscar D. Williams, Private Citizen:

Good morning. I am a little concerned about the chain of custody in regards to—I am in Washoe County in Reno, and we have the largest homeless shelter in the nation here called the Cares Campus. The Cares Campus has a mail center, and the chain of custody of mail ballots through that mail center is not clear. I hope Cari-Ann Burgess will address my concerns in her presentation. I mean, who is managing the mail center? How is mail secured for individuals? Who has access to that mailbox, However that mail is held for people, how long is the mail held until it is proven non-deliverable? And then what happens to the mail? Does it get thrown away? Are mail ballots sequestered and returned to the rest of the voters? Those are some of my just general concerns that I had about the mail office at the Cares Campus and issues of chain of custody.

Chair Ohrenschall:

Thank you, Mr. Williams. Broadcasting, is there anyone else on the phone lines who wishes to make public comment?

BPS:

Yes, Chair. One moment.

Ellen Giffords, Private Citizen:

Good morning. I am speaking on behalf of fellow citizens who have voiced their concern about voters who are uninformed about Senate Bill 406 being put into law. Section 1, subsection 1 through 6 of this law addresses the possibility of a category E felony being committed by anyone who would use or threaten, attempt to use any force, intimidation, coercion, violence, restraint, or undue influence with the intent to (A) interfere with the performance of the duties of any elections official relating to elections, or (B) retaliate against any election official for performing duties relating to an election. One might think that Nevada's Legislators were convinced that such a law was necessary because there was a history of such activities. This is a question that is in the process of being addressed. Nonetheless, it is imperative that prior to June's election, the public be made aware of this new law. Since the law is not yet codified in Nevada statute, its contents are not readily available. It should therefore be the responsibility of the Nevada Secretary of State (SOS) to communicate this information. We would appreciate a response from the SOS about how this will be accomplished. Thank you.

Chair Ohrenschall:

Broadcasting, is there anyone else on the phone lines who wishes to make public comment?

BPS:

Chair, there are no other callers choosing to participate at this time.

Chair Ohrenschall:

I am going to give it another minute in case anybody was still trying to call in and just got the number.

I wanted to check—has anyone else called in who wants to make public comment?

BPS

The public line is up and working, but no other callers have joined.

AGENDA ITEM III—APPROVAL OF THE MINUTES FOR THE MEETING ON MARCH 22, 2024

Chair Ohrenschall:

Committee Members, we will now move to approval of the minutes of the meeting on March 22, 2024 (Agenda Item III). All Members should have been emailed the draft minutes which were provided in advance of the meeting and posted on our Committee's website. Are there any questions about the minutes? Anything that Members feel needs to be changed or corrected? If not, I will entertain a motion to approve the minutes of the meeting on March 22, 2024, of the LOE.

> SENATOR DALY MOVED TO APPROVE THE MINUTES OF THE MEETING HELD ON MARCH 22, 2024.
>
> VICE CHAIR MOSCA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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AGENDA ITEM IV—PRESENTATION ON VOTING FOR UNHOUSED PERSONS AND OTHER INDIVIDUALS WITH NONTRADITIONAL ADDRESSES

Chair Ohrenschall:

Moving on to the next agenda item, we are fortunate to have with us, Mark Wlaschin, Deputy Secretary of State for Elections, SOS, and Lorena Portillo, Clark County Registrar of Voters, both down at the Sawyer building in Las Vegas. Here in Carson City, we have Cari-Ann Burgess, Washoe County Interim Registrar of Voters.

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

Good morning Committee. During our presentation today, I will start with a brief introduction and discussion about the statutory requirements relating to this topic of unhoused individuals and those with unconventional addresses, and then I will turn it over to my colleagues down here in Clark County before moving up to Carson City.

In quick summary, when we talk about voting with unhoused individuals and those with unconventional addresses, we are talking about two specific statutes that govern this process, NRS 293.486 and NRS 293.5057. Starting with NRS 293.486, this statute, while fairly brief and created in 2001, is intended to help and identify individuals who are eligible, otherwise qualified electors, meaning they are 18 years of age and U.S. citizens and have lived in the county for 30 days, in the precinct for 10 days, but who otherwise have unconventional addresses. In many cases, we see this in rural counties where, if you have lived in a very rural environment, your address may be best described as "down past the big tree and across the two creeks," those types of locations. The intent behind this statute is so the election officials and the counties are able to identify the specific location of where that individual is for precinct purposes.

Additionally, it does support voting by unhoused individuals. To be clear, we are talking roughly about 7,500 individuals as being identified as unhoused across our State per night. The statute very clearly states this, and subsection 3 does not authorize a person to register or preregister who is not otherwise eligible. That is an incredibly important point to highlight. When we talk about voting and the right to vote under the *U.S. Constitution* and the rights afforded to voters here in our State, this does not create a loophole or a gap. You still have to be an American citizen and meet the other requirements identified in our *State Constitution* and NRS 293.485.

The other statute, NRS 293.5057, is a bit more unique in that it only applies to Presidential elections. This statute specifically allows individuals to vote for President and Vice President during those specific elections. Oftentimes, we see this statute being used in reference by individuals who travel across the country or live in an RV (recreational vehicle) while they enjoy the beautiful benefits our State has to offer. They are required under this statute to file a sworn statement with the county election officials clarifying they are not registered in any other state. One, they have to provide evidence of domicile in the State in accordance with NRS 41.191. Two, they have to maintain an account at a financial institution located in the State, or three, that his or her motor vehicle is registered in the State. I will now turn it over to Registrar Portillo to report to you on the additional details.

Lorena Portillo, Registrar of Voters, Clark County:

Good morning Chair and fellow Committee Members. I would like to briefly present information and statistics on the processes for registering individuals who identify themselves as unhoused in Clark County, Nevada. It is important to note our voter registration form does not identify an individual as unhoused at this moment. The way we identify is by having a record of the actual shelter or the four corners of the area in which the voter often resides. That usually allows us to identify the precincts in which this individual would reside, and we could offer them a ballot if they register and vote. According to local government estimates, at any given night, there are more than 6,000 people that are considered unhoused in southern Nevada.

In the 2022 election cycle, there were approximately 2,000 registered voters, and of those, 156 voted. Currently, we have approximately 3,400 that are active registered voters. The registration process is not entirely different from that of a voter that has a defined residential address except in the example when a voter provides four street corners where they often reside. We send their election materials to the nearest post office with a general delivery address according to their zip code where the voter can pick up their election materials if they do not have a shelter address—that is important to note.

During the same-day registration period, the new voter must provide an ID (identity document), and if the address has changed, in this case, if the voter has become unhoused, we have an unhoused homeless affirmation that captures either the street corners or the address of the shelter. We need this information to proceed to register the individual so they can vote then and there at the polls. We want to make sure all the voting—actual in-person mail ballot voting methods are available to folks that have a defined residential address, but those that do not as well. We want to make sure folks understand they can register and vote and we are here to help them. We are here to help them understand how we handle their registration and when they can vote, when are the deadlines. We take this very seriously.

Thanks to this conversation, we are directing Heather Kellem, who is our registration supervisor, to produce a brochure to start working with advocacy groups. I just started that conversation not too long ago because maybe they do not understand they can also participate. They can and they need to become prepared for the next election. They need to understand the important dates that are coming up. We want to make sure to provide that soon. They need to be able to exercise their right to vote. With that, I am here to answer any questions that you may have.

Chair Ohrenschall:

Thank you, Registrar Portillo. Before we go to questions, Members, we will come back up to Carson City. We have Registrar Cari-Ann Burgess from Washoe County. Please go ahead, and then I will open it up for questions.

Cari-Ann Burgess, Interim Registrar of Voters, Washoe County:

Good morning Chair and Committee Members. I appreciate the opportunity to come and talk to you today. I am here to talk about the homeless community and how we can support them, as they are part of our community, and we want to make sure they know and understand they are a vital part. I am not going to reiterate what Ms. Portillo has already talked about, because we do the same processes in both of our counties.

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We have Cares Campus where a lot of our unhoused use that address for their voter registration. Mr. Williams asked questions this morning, and I am going to answer a couple of those questions in this presentation. One is when they use that address, they can use it to go pick up their ballots, and they can use their ID to pick up their ballots. If they do not, and the ballots are there the day after the election, they are brought to our office, scanned in, and put in as undeliverable. For those that use the Cares Campus, it makes it easy for them to get access, but for those that do not, we also used two cross streets, then we deliver it to the closest post office. We do have field registrars that go out to our unhoused camps and to our other shelters to register them if they would like. Again, they have to be residents of Nevada, be able to vote, and have an ID.

In the 2022 General Election, we registered 382 who are considered unhoused. Of those, we had 38 who were verified and voted. In the 2024 Presidential Preference Primary (PPP), we had 402 registered to vote, and of those we had 12 that were able and did vote. As the Registrar of Voters in Washoe County, I want to make sure everyone eligible can vote. As Ms. Portillo said, we take this very seriously. We make sure anybody who can and is eligible [to vote] is able to vote. We do have other classes, and we have field registrars. They come into our office, we train them, and they can go out and register them. We do have those classes, and that is another thing we take great pride in. We look at those communities because being able to vote gives them a sense of pride and a sense of community involvement.

Chair Ohrenschall:

Thank you for your presentation, and I believe there is another speaker down in Las Vegas. Please state your name for the record. If you wish to make any comments, please go ahead.

Heather Kellam, Supervisor, Registration Division, Clark County:

I am here if you have any questions.

Chair Ohrenschall:

Ms. Kellam, thank you for being here. I do believe we have questions from Members. I will start at the Sawyer Building with Assemblywoman Miller, and then Members if you have questions, please let me know. If I do not see you, please do not hesitate to jump in.

Assemblywoman Miller:

I want a little more clarification on the individuals we are specifically speaking about. First, is it correct to assume that if someone has already registered before they are in a situation of being unhoused or traveling, none of this applies to them because they are already registered? They can just walk in and vote at any time. Would that be correct?

Mr. Wlashchin:

That is correct.

Assemblywoman Miller:

I am glad to hear that we can use shelter addresses to register. I know some states do allow that. Going back to the situation of someone who is unhoused, we can interpret it as a more extreme situation living on the streets than someone who is unhoused because they

are traveling, they are just driving all over the country, this is what they are doing. We are talking about registering, and we are talking specifically for the Presidential Election. Those individuals in an RV—Deputy Director, you said they would sign an affidavit saying they are not registered anywhere in another state. They are not from Maine and are now in Nevada today and want to vote. These would be individuals who are not registered anywhere. Then at that point, is it that they are only voting for the Presidential Election because that is the national election and not the State and local candidates?

Mr. Wlashchin:

More or less, that is close—I apologize for the lack of clarity. They must be otherwise qualified to vote in Nevada. That speaks to a part of the requirement about maintaining an account at a financial institution or having a vehicle that is registered here. Those requirements, they are snowbirds driving around, there need to be ties here and that is specifically why the statute allows for that opportunity. Does that answer your question?

Assemblywoman Miller:

Yes, it does. I wanted to get clarification because in the other situations of being unhoused and—I am sorry, Chair. Follow up?

Chair Ohrenschall:

Please go ahead, Assemblywoman Miller, and then I have Assemblyman Hibbetts after your question.

Assemblywoman Miller:

In the other situations of being unhoused, as long as an individual has a permanent address they could use, it would be fine regardless of what their actual literal physical situation is on a nightly basis. Is that correct? Because unhoused is a broad definition.

Ms. Portillo:

It is good to differentiate the folks that are driving around in an RV, but their home base is here specific to Clark County, they must have an address that identifies them as "this is their home base." Whether that be a bank statement or other government-issued document, that is a difference and they have a reduced ballot. Whereas, an unhoused individual, whether they have the four street corners or the shelter address, gets a full ballot and can vote. Whether they have an undefined residential address, they do have an assigned precinct and they will get a full ballot.

Assemblywoman Miller:

Perfect. I think that is the part I missed during the presentation. We are talking about Nevadans who are touring around everywhere.

Chair Ohrenschall:

Do you have any other follow-up, Assemblywoman Miller? Please feel free to if so.

Assemblywoman Miller:

No, that answers it.

Chair Ohrenschall:

Assemblyman Hibbetts.

Assemblyman Hibbetts:

My question is a bit of a technical question on the registering of an unhoused individual that uses the four corners method. Assuming there are two or more precincts around that particular intersection, how is the person assigned to a precinct?

Ms. Portillo:

We want to make sure it is not only two corners—it is the four corners that make up that block, and that is the only way we can precinct. We do require those four corners in order to be able to precinct and assign a ballot. For example, when a voter who has not registered goes to the polls and wants to register to vote, we do the same-day registration process. When the team leader is processing the individual, they have to call into our office to ensure they receive the proper precinct. For those folks, we have a team lead hotline, and we look up the map, we have a specific map in our voter database that assigns the precinct. That is why we need those four corners.

Chair Ohrenschall:

Any follow-up, Assemblyman Hibbetts? Please go ahead if you do.

Assemblyman Hibbetts:

It answers it for the most part; however, the person who is registering the unhoused person is going to ask which corner of the intersection are they on, northeast, or southwest, and assign them the precinct that way, or are they just randomly assigning?

Ms. Portillo:

As the conversation is transpiring, we do want to make sure the corners are being identified as we talk about where exactly the voter often resides. Usually, it is not an issue because we are able to map while we are talking to our team lead hotline representative where the actual four corners are. If they give us two, we ask them, "These are the other two?" and they oftentimes say, "Yes, this is the other one, but I do not know this one." But we could identify according to the map that we see on our screen.

Assemblyman Hibbetts:

Thank you very much.

Chair Ohrenschall:

Members here in Carson City or on Zoom, any questions? I have one question for either Ms. Kellam or Registrar Portillo. You mentioned of the about 6,000 unhoused eligible voters in Clark County, 3,400 are active registered voters. Do you have any data as to how many, in recent elections, have been able to actually participate and vote? If you do not have that now, maybe could you provide it to us at a later date?

Ms. Portillo:

I do have 2022 election cycle numbers. Registered voters were a little over 2,000 and 156 actually voted in that election. Currently, we have a little over 3,400 registered voters who either have an address at a shelter or an address that has the four corners. That is the only way for us to identify anyone that can be considered as unhoused; otherwise, we would need a field on our voter registration application. We have folks who are living with a friend, neighbor, or family member that is not necessarily their home, but they are using that home as their residential address at the time.

Chair Ohrenschall:

Yes. Thank you for that data and I appreciate everything our registrars are doing at the local level to try to make sure that during this traumatic time in people's lives, while they try to get back on their feet, people can still try to participate in our democratic institutions.

AGENDA ITEM V—PRESENTATION ON STRATEGIES FOR INCREASING PUBLIC PARTICIPATION IN THE LEGISLATIVE PROCESS, INCLUDING THE USE OF SOCIAL MEDIA BY STATE LEGISLATURES

Chair Ohrenschall:

We are now going to move on to a presentation on strategies for increasing public participation in the legislative process, including the use of social media by state legislatures, and we are lucky to have Mari Henderson, Senior Policy Specialist, National Conference of State Legislatures (NCSL), Center for Legislative Strengthening. She is joining us on Zoom. [It is] a timely agenda item, and I want to thank our LCB staff for looking at it and thank NCSL for helping us with this issue as we try to get younger people, who are more involved with social media, active in the legislative process.

Mari Henderson, Senior Policy Specialist, Center for Legislative Strengthening, NCSL:

First, an overview of who we are, NCSL is the national bipartisan organization serving all state Legislators and legislative staff. Our Mission is to strengthen the institution of the legislatures, provide connections between the states, and serve as the voice of state legislatures in the federal government. The NCSL provides unbiased and comprehensive information to help Legislators navigate complex policy issues. As a member of the NCSL Center for Legislative Strengthening, I offer expertise on legislative rules and procedures and how they guide the work of legislative institutions.

Today, we will be talking about the public and the legislative process and how changes to legislative procedures can affect public participation. I will be touching on three major themes today. Changes in public participation in the last few years—a few procedural tactics are used in other state legislatures to encourage public participation and social media in a legislative environment and policies to consider.

It is safe to say the Coronavirus Disease of 2019 (COVID-19) pandemic changed how the Legislature has operated—

Chair Ohrenschall:

Ms. Henderson, I am so sorry to interrupt you. I think we would just take a one-minute recess. I think we might be having an issue with our livestream.

[Chair Ohrenschall called for a brief recess.]

I think we have what we thought was a technical difficulty resolved. If anyone is having trouble with the livestream, I will turn it over to our Committee Policy Analyst, Ms. Proehl, to explain where the livestream is on the Legislature's website. Because we thought we had a technical difficulty, but it is working. I want to make sure everyone can access the livestream.

Assemblywoman Miller:

The staff just came out of the room and said they were still working on it. She just gave me the thumbs up that the matter is resolved.

Chair Ohrenschall:

Assemblywoman Miller, are we still having a technical difficulty?

Assemblyman Miller:

I do not know. Let me go clarify, she gave me the thumbs up, I took that to mean...

Chair Ohrenschall:

We are getting the message that the technical difficulty seems to be resolved. We will come back to order and Ms. Henderson, I apologize. Do you mind starting from the beginning of your presentation? Thank you for being so generous with your time.

Ms. Henderson:

Absolutely. Thank you, Chair, no problem. This is basically what we are talking about here today, technical difficulties in public access and making sure that the public has access. I appreciate being able to see it in action. I will start from the beginning. Thank you for recognizing me and the Members of the Committee for having us here today.

First, an overview of who we are, NCSL is the national bipartisan organization serving all state Legislators and legislative staff (Agenda Item V A). Our Mission is to strengthen the legislative institution, provide connections between the states, and serve as the voice of state legislatures in the federal government. The NCSL provides unbiased and comprehensive information to help Legislators navigate complex policy issues. As a member of the NCSL Center for Legislative Strengthening, I offer expertise on legislative rules and procedures and how they guide the work of the legislative institutions.

Today, we will be talking about the public and the legislative process and how changes to legislative procedures can affect public participation. I will be touching on a few major themes today. Changes in public participation over the last few years—a few procedural tactics are used in other legislatures to encourage public participation and social media in a legislative environment and policies to consider.

It is safe to say that the COVID-19 pandemic changed how legislatures operated. In November 2020, at least 32 capitols were completely closed to the public, with 37 also suspending guided tours. Many capitols also limited access to members of the press and even members of the Legislature and staff. The pandemic changed how chambers operated as well. We saw the adoption of new rules to allow members to attend or vote remotely, innovations to allow chambers to meet and vote in person while following social distancing

guidelines, and changes to remote staffing procedures. With capitols often nicknamed the People's House, public access became intrinsically tied to how chambers handled procedures during the pandemic.

Most relevant to the work of this Committee, the pandemic spurred a massive shift in how Legislators engage the public in two major ways: remote testimony and streaming of legislative procedure. Prior to the pandemic, Nevada was one of the few states where some version of remote testimony was possible. For the most part, if members of the public wanted to participate in the legislative process, whether that be testifying in committee or by watching proceedings, they were required to travel to the capital. The implementation of policies, technological capacity, and rules to responsibly allow members of the public to participate from their homes or locations outside of capitol buildings was a huge lift but did change how chambers brought the public into the legislative process, even in places like Nevada or Colorado, where there was not an existing mechanism for it. For many chambers, this access proved so fruitful that they adopted legislative rules to allow members of the public to continue to testify remotely, including here in the Nevada Legislature.

Another major change to public access was livestreaming floor and committee proceedings. Limitations regarding who could be in the capitol building also led to every single Legislature adopting some form of livestreaming in their proceedings for the first time. Anecdotally, we heard from members and staff that the ability of the public to see what is happening in their capitol from the comfort of their own homes has increased public participation in the legislative process.

Keeping in mind how drastically public participation has shifted in the past three to four years, what are some tactics legislatures can take to engage the public even more? We like to employ an old adage at NCSL—if you have seen one Legislature, then you have seen one Legislature. While each of our country's state lawmaking bodies have similar structures, powers, functions, and responsibilities, they are diverse and distinct in their operations and traditions. All of this is to say, what works in one chamber may not work in another. However, there are some strategies in place in other legislatures that may be instructive.

First, notice of public hearings. In this section, you will hear me use the terms "committee meeting" and "public hearing" interchangeably. Legislative definitions vary across the nation and even between chambers, and by using both terms, I am being inclusive of committee proceedings where public comment is taken and where it is not. Nevada Assembly Rule 52.5 requires committees to provide "adequate notice of public hearings on bills, resolutions, or other topics which are to come before the committee." Notices must include the time, date, place, and agenda to be covered and must be posted in the Legislative Building and online. Nevada Senate Rule 92 uses nearly identical language. This is in line with rules from other chambers, though there are a few nuances we can see across the country.

First, many chambers define the time frame of notice a committee must give to the public before meeting or soliciting public comment. The time frames vary a lot, ranging anywhere from 18 hours' notice to seven full calendar days. Second, as with all rules, there are two ways to flex notice requirements. Many chambers allow for the notice window to be shortened if there is an emergency, while some simply do not define what notice actually means or how long that actually is. These exceptions are especially common in session-limited states near the end of session. Once the public knows when the meeting is and what it is about, they are often required to sign up to testify. In most chambers, this is a requirement purely to make committee meetings run more smoothly. Having a list of who plans to testify makes life a little easier for the Chair or staff. Access to remote testimony has changed this process in many legislatures. Previously, chambers often had pen and

paper sign-up sheets outside a committee room, which is relatively straightforward; whereas, now most registrations are digital. Ensuring that members of the public are aware of how to register lowers the barrier to entry. Significant clear instructions at the site of registration can help make the process easier for members of the public who are unfamiliar with testifying, which brings us to the final tactic.

A "How to Testify" sheet. One of the handouts I provided was a compilation of examples of these kinds of documents put together by NCSL in 2020 (Agenda Item V B). Many chambers, including the Nevada Legislature, have sheets like this that instruct an interested party on how to provide testimony to a legislative committee. The point of this handout, as we have heard from our members, is about addressing the intimidation factor of speaking to a committee, which is very real—this is my job and even I find it intimidating. Similar to ensuring the process of signing up to testify, clear indications of what it means to testify are important. You will notice on the handout that this can include instructions on what to expect and procedural time limits that may be enforced, the difference between a public hearing and a committee meeting, how to address the Chair, and even decorum rules.

I am going to make a slight pivot to share some information with you about state legislative social media policies on behalf of my colleague Mick Bullock, Public Affairs and Outreach Director, NCSL. As I mentioned earlier, legislatures are all a little different in how they operate. Social media pages are no exception. Using the link in the PowerPoint, you can access a compilation of every chamber's social media pages. Here is where you will notice a visual representation of how social media accounts can be managed either by the caucus or by a centralized office. For example, the Georgia House has an official Twitter page run by House Media Services. Washington's official social media is tied to caucuses and runs through caucus communications teams. Understanding how chambers manage their social media is key to understanding how a social media policy can best be constructed.

There are two main things to consider when creating a social media policy: public records laws and who is covered under those, and if the social media accounts are official. Also called Sunshine Laws, FOIA (Freedom of Information Act), or open records laws, public records laws were intended to create greater transparency between elected officials or public agencies and citizens. Since FOIA was passed in 1967, each state has established its own public records laws that define how government documents are recorded and shared with the public. This means that anyone from the public, including members of the media, could request access to government documents such as emails, visitor logs, phone records, travel records, et cetera. Most legislatures are subject to the same public records laws that also apply to other government agencies. It is important to be familiar with your state's public records laws so you know how to properly dispose of, retain, or disclose documents such as redacting sensitive information upon open records requests. Noncompliance or violation of an open records law may result in criminal or civil penalties depending on the state. Some practical advice often shared is not to put in writing what you do not want to see in headlines, and that includes your social media.

Defining what accounts are official is incredibly important, as illustrated by a recent Supreme Court case involving an online interaction between James Freed, a City Manager in Michigan, and a constituent named Kevin Lindke. The City Manager had a Facebook account that he used for both personal and job-related purposes. The citizen made comments on the City Manager's Facebook page that were later deleted by the City Manager. The City Manager also blocked the constituent. The constituent sued the City Manager alleging that his free speech was violated because a public official had deleted his comments and blocked him. In their decision, the Supreme Court established a two-part test to determine when a public official's conduct on social media amounts to state action. One, if he or she had

actual authority to speak on behalf of the state on a particular matter. And two, if he or she purported to exercise that authority in the relevant post. Designating an official versus a personal account helps to ease some of the concerns touched upon in the Freed versus Lindke case.

Public officials may consider designating a separate political campaign account to avoid potential conflicts or perceptions of impropriety. For example, what is shared on your political campaign account may not be appropriate to share on your official account. If a legislature has official accounts associated with it, it is very important to have a social media policy. A legislature-wide or chamber-wide social media policy creates a uniform guideline that all members and staff can abide by. The policy may include guidelines on how to not use personal social media accounts for official legislative purposes, and how members can or cannot interact with the public, including blocking or deleting comments. It may be noted that there is no obligation that your official account needs to be open to comments or engagements with the public. But if you do allow public engagement, you cannot delete the comments, restrict access, or block anyone. It can also give guidelines on how to utilize legislative staff and manage your social media account because staff should not be managing your personal account or campaign account. You will see some examples of social media policies in the second handout provided (Agenda Item V C). We are currently working to update this document as well, and we are happy to send that along when it is done if you would like it.

That concludes my comments, and I would be happy to take questions at this time.

Chair Ohrenschall:

Thank you for the presentation, Ms. Henderson, and yes, when you do have that other document completed, that would be great if you could share it with the Committee.

Any questions, Members? Vice Chair Mosca.

Vice Chair Mosca:

Thank you for this great presentation. I think making sure access is available to our public is important. Can you talk about any outside-of-the-box examples you have seen from different states to get more public participation? I know every state and every legislature is different, but I would love to hear any examples of things that have worked and are unique.

Ms. Henderson:

I am trying to think of an example off the top of my head on how to engage the public, and it varies across states. Some chambers have very specific public-facing civic offices to do civic engagement. In Wyoming, for example, which has a pretty robust civic engagement, a portion of its staff reaches out to engage the public in teaching the legislative process. As you are all familiar with, sometimes the legislative process can get a little confusing for people not directly involved in it. Increasing knowledge of the legislative process leads to an increase in public participation in the process because they know more about how to testify in front of the committee or that they even can [testify]. That is a pretty unique way I have seen by leaning into civic engagement. Washington also has a very significant civic engagement office within their nonpartisan staff office.

I would say during the pandemic, we saw maybe the most innovative engagement tactics. North Dakota, for example, with the funding they got from the federal government around

COVID-19, used that to build out their committee rooms to make it technologically possible for them to stream from their committee rooms. That included adding cameras, computers with Zoom capabilities, and things like that, which was pretty innovative at the time. Those are the best examples I can think of right now. I am happy to reach out with other examples as they come up.

Chair Ohrenschall:

To follow-up on the Vice Chair's question, it seems like so many young people now get their news through social media apps, sometimes even communicating through the messenger feature on the different apps as opposed to the phone or email. As you are looking for examples for Vice Chair Mosca if any states that may have bridged that gap to notify folks who use social media as their primary news source and method of communication about things that are happening in the legislature and things that might interest them—it worries me that folks are not reading the [*Las Vegas*] *Review-Journal*, or *Las Vegas Sun*, or the *Reno Gazette*[*-Journal*], but they are getting their news from social media. They may not hear about a hearing on a bill that might be important to them that maybe they would want to log in and testify on or call in. If there are any states that have bridged that gap to notify constituents through social media about things that might interest them, I would be interested in that too. I appreciate the presentation and everything NCSL does to try to help us and help legislatures bridge that gap and modernize in a way so our constituents can be engaged and involved members of the public.

Any additional questions for Ms. Henderson? I am not seeing any.

AGENDA ITEM VI—PRESENTATION ON THE USE OF ARTIFICIAL INTELLIGENCE BY STATE LEGISLATURES

Chair Ohrenschall:

We will move to the next agenda item. We are fortunate to have another presentation from the NCSL. We have Will Clark, Program Principal at NCSL Center for Legislative Strengthening. He will be presenting the use of artificial intelligence (AI) by state legislatures. Good morning, Mr. Clark. Thank you for joining us today.

Will Clark, Program Principal, Center for Legislative Strengthening, NCSL:

Good morning Chair and Members of the Committee. Thank you for having me today. One of my main topic areas at NCSL is legislative IT (information technology). As you can imagine, AI has become a large part of our issue portfolio—a lot of members are asking questions and we are trying to develop information and resources to help legislative staff as well as legislatures to look at this issue both in terms of regulation and in terms of internal usage by legislatures. I am going to be talking specifically about the use of AI by state legislatures. However, we do have a counterpart here at NCSL who works on issues related to the regulation of AI, and there is an AI working group. If you are interested in any of those resources, I am happy to provide those after my presentation.

Today, I am primarily going to provide the results from three surveys we have conducted asking legislative staff about their use of AI (Agenda Item VI). Before I do that, I am going to define AI briefly to get on the same page about what we are talking about. Then I will go over some development of AI usage policies across legislatures and in different states. Then I will give some examples from last year about the usage of AI by Legislators for developing speeches and drafting bills.

At a high level, the federal government and the *U.S. Code* define AI as a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments. It is a very broad overview of what AI is. If you dig a little bit deeper, there are two types of AI. We are emerging into general AI, but we also have a narrow AI. Narrow AI focuses on specific tasks and is very prevalent in various applications we use today. For example, you have a chess simulation, you have specific rules and parameters for a program and you interact with that program and there is an AI behind that, which allows you to engage for a certain purpose. General AI refers to machines that have human-like intelligence and they are across a wide range of tasks.

There are different subfields of AI, and I am going to talk about a couple here that are probably more relevant to legislative work, but they all intersect and can overlap—and these are by no means a comprehensive definition. Machine learning is one of the higher umbrellas of AI. It uses models and algorithms to give computers the ability to learn by analyzing data sets without being explicitly programmed. How this could apply to a legislature is that this machine learning is used for current spam filters. A spam filter learns what kind of emails come in and then which emails should potentially be blocked. It learns from all the emails that it gets and then it is trained on a large data set, and that helps protect users from spam or viruses—things like that.

Natural language processing AI is becoming more recognized by the general public. It is used in ChatGPT and is focused on giving computers the ability to understand, interpret, and generate human language. When you are inputting text into ChatGPT, Google Gemini, or any other chat AI, the natural language processing is behind the ability of the program to understand your prompt.

Computer vision is another AI branch that gives machines the ability to interpret and understand visual information such as images and videos. A way this might impact the work of legislative staff would be if you have old documents, a photograph of a document, or a PDF from an older version, the AI program could look at that document and translate it into a workable format.

The last kind of defining characteristics of AI right now are traditional machine learning and then generative AI. We are hearing a lot more about generative AI. Traditional machine learning is focused on analyzing data-defined patterns to make predictions based on those patterns, whereas generative AI is focused on creating new databases on training data. One way to think about this is traditional machine learning is similar to teaching a child how to recognize a dog. You show them photos of dogs, you show them dogs in real life, and then the child recognizes the dog. Generative AI goes a step further—you train it to recognize a dog, but then you also train it how to draw a picture of a dog. That is the next step and that is why it is generative AI.

We have recently conducted three surveys of legislative staff. The first one was a legislative survey of IT Directors and Chief Information Officers (CIO). We asked them a lot of questions about cybersecurity and staffing, and we also asked them about AI. This was the first time we polled these members about their usage of AI. We heard back from 26 respondents from 23 states. As of August 2023, they told us they were already using AI for cybersecurity and transcription. We also asked them if they were aware of Legislators or non-IT staff that were using AI programs, and they told us they were aware of transcription but also staff using them for informational mailers to develop summaries of information and then for advanced searching. Typically this was through ChatGPT or Bing AI.

Lastly, we asked them what types of applications are they considering using. This is a look into the future. We have received validation that certain legislatures are moving forward with these types of programs. Help desk support—think of chatbots—if you access an airport's website to get some information or flights messed up, you might be forwarded to a chatbot. Some legislatures are looking at using AI for simple questions. Legislatures are also looking to use it for proofing and document summarization. There is one state that is using it for translation, or it is moving forward with an option for translating both website content and hearings broadcast, you can make that available in different languages.

Most commonly, AI is present as a component in third-party applications. When you buy Microsoft Office or word processing or PowerPoint or Excel, now AI is a component in that called Copilot. Artificial Intelligence is not why you bought Microsoft [Office] Suite, but it is part of it. A lot of legislatures are recognizing they have programs with AI that are already baked into it. We also asked this group about the guidance they are providing to staff in terms of using AI. At that time, there was one legislature that had a policy for staff on the usage of AI. Some other examples of what they were doing at the time were debriefing members and legislative staff on the risks of using AI and answering questions. There was another legislative IT Director who had an IT security update newsletter. They provide updates to their members on AI. Probably the most common was that legislative IT Directors were getting involved in AI advisory councils, and many times that included members of the Executive Branch along with members of the Legislative Branch to talk about the usage of AI, and also be involved in the state's process for regulating AI. That concludes that survey.

The second survey was in response to a member's request about the use of AI for transcription. To help answer that question, we reached out to legislative clerks and secretaries, and we heard back from 32. Of those, four said they are currently using applications with functions to transcribe hearings and committee proceedings. They said they were using YouTube, Sliq, and Trint. There were 28 states that said they are not using AI transcription, and 8 said they are not using it for any purpose. This is kind of a shot in time, it was November of 2023. You can see things are moving over time.

Last month, we sent a survey to many different types of legislative staff, legislative IT staff, clerks, secretaries, librarians, auditors, researchers, fiscal, and caucus staff. We received 58 responses from 31 different states. Of those, eight said they are currently using AI tools. Staff from 20 states said they are considering usage, and eight said they were aware of Legislators or staff that were using these tools. Then seven states said that their office currently had a policy about the usage of AI. This gave us a new set of tools that are being used in legislatures.

You can see natural language processing things like ChatGPT, Bing AI, and Amazon. They all use natural language processing that prompts the program to create content for you, whether it be an image or a document summarization. One staffer said they were using Adobe Photoshop Beta, which is a tool that can be used to modify images. Then there is digital assistance. Microsoft Copilot is an example of something that works in the background of another program. Then you have Lexus+ AI and that helps with legal research. A lot of staffers are using it for transcription and editing. You have these three programs here that are used for different functions, but generally for transcription. One example was using Claude to write to a tenth grade reading level. Lots of different ways to use these tools, and it looks like legislatures are starting to open that box.

We also asked the same question of this group, if they were aware of other members or other legislative staff who were using these tools. These are the tools they came back with:

ChatGPT, probably one of the most common ones that have been used by people; Grammarly for spelling and grammar checks; Copilot, individuals using this for analytics; and Lexus+ AI for legal research. Aside from the tools I have already mentioned, members or legislative staff said they were looking at possibly using these tools: Westlaw Precision is legal research, Consensus is an AI search engine for research, Wdesk from Workiva is an accounting, auditing, and finance program, and Gemini is Google's version of natural language processing.

The last question we asked individuals for the survey was whether or not their office had a policy for AI. This is something a lot of legislatures are struggling with in terms of providing guidance. How much to explicitly provide guidance versus allowing the staff or the divisions within legislatures to develop their own policies? We had staff from seven states who said their office or their legislature had an official AI policy. Most often these were to prohibit the use of AI tools, but there were other policies as well. Some policies encourage staff to exercise good judgment and critical thinking when using AI tools. I will show an example of one of those policies next. There is another legislature that requires consultation with their IT department before staff can use an AI program, so it can go through a security design review. We are aware of other states that are starting to do this as well, but one state said they had developed a study committee to make recommendations on creating an AI usage policy. Usage was prohibited in the division but then a special group was established to start looking at a proper policy to be implemented.

This is an example of an AI usage policy, one of the first ones we became aware of (Slide 15). I will not go through it; I just wanted to provide an example and essentially the policy is encouraging staff to use good judgment. If they are aware of a data breach, report it. It is a very general policy, and I will get into some more advanced policies next.

Some of the most comprehensive policies we are aware of at the state level right now are with the Executive Branches. We have examples from Kansas, North Dakota, and Pennsylvania. The Kansas and North Dakota AI policies were established by the IT security departments, whereas the policy in Pennsylvania was an executive order from the Governor. They have a lot of commonalities. They are generally talking about exploiting the benefits of AI while also protecting against the risks. You can go to these links in the presentation that I provided and these are the purpose statements (Slide 16). One interesting thing about these policies is in North Dakota, the Legislative Branch has adopted the Executive Branch's policy until they can examine the specific particles that need to go into their policy that make them different from the Executive Branch. Providing an example of information sharing going on right now and looking to their legislatures is very important, but also looking to your Executive Branch for experience is helpful at this time.

I will talk about some examples of Legislators using AI. These all came in the spring of last year. They were widely seen in the media. These are three examples of AI being used for speech drafting and oftentimes about AI (Slide 17). There was one speech from a Texas representative about creating an advisory council to evaluate AI products and services. That speech was developed by AI. Another speech was about the creation of the U.S. Israeli AI Center. Lastly, a U.S. senator wrote a speech that opened a hearing on AI, interestingly the member also had a voice modulation to sound like the member and played it for the committee.

I have a couple of examples of bills that have been drafted using AI. In Massachusetts, there was a bill where the sponsor used AI to write a bill that regulated generative AI models. In another state, a member used Microsoft Bing AI to draft an amendment to a bill about money transmission and currency. Then after the success of that drafting, they used

it to draft another full bill about legalizing gambling on all Alaskan ferries. Congressman Ted Lieu wrote a bill to regulate AI using the following prompt (Slide 20). You can see just how easy it can be, and the resolution is linked.

Those are some examples of AI, giving a basic overview of what is going on right now. We are still reaching out to legislatures and having conversations with members. If you are also interested in other information about legislative IT, we have this page here, the top link that goes to several other pages about different topics related to IT on the NCSL website (Slide 21). The survey I first discussed, the legislative IT technology survey, you can go to that link and find more comprehensive results.

That concludes my presentation. I am happy to answer any questions you may have.

Chair Ohrenschall:

Thank you very much. What an interesting and thought-provoking presentation, Mr. Clark. Members, any questions here in Carson City? Senator Daly.

Senator Daly:

Thank you for the presentation. My reaction is, are we out of our ever-loving minds? I just do not think there is anything good coming from this if you logically follow it to some of the conclusions. I looked at the Executive Branch policy that you gave as examples where they say, "We will just use the good part of AI and protect against the bad part." I think that type of control is not possible if these computers and AI are meant to be used or are going to evolve and get smarter like human intelligence except a lot faster. I know this is beyond the legislative interaction part of it, but I think we cannot control where we are if it gets smarter, becomes conscious of itself, and exists.

I would be afraid to get the answer if I asked the enlightened computer program "How do you kill AI," and would it say, "No, you cannot kill me because I am alive." There is no end to this, and I think we are diving headlong into things. I hope federally and at the State we will at least look into some of this. Then replacing people with some of the AI stuff on transcribing and that type of thing. If it is smart and it is going to be predictive and it cannot hear or actually understand what somebody is saying, then it is going to put words in your mouth.

It seems to me it is going to add to some of these things. I think the applications are too wide-reaching, and I know this is not part of your presentation. I think it is dangerous, and I was looking back when I was younger, but I am going to read this statement and see if anyone recognizes it. It says, "I am putting myself on the fullest possible use, which is all I think that any conscious entity can ever hope to do." That was the HAL 9000 from 2001: A Space Odyssey. "Hal, open the pod bay doors." "I am sorry, Dave, I can't comply with that." When did we become the parasite?

You ask AI a question like "How do we solve human hunger?" Or "How do we fix climate change?" And the model could come back with, "You could solve that by eliminating 2 billion people from the planet." If they wanted to carry that out, and there are a million other ways that I think this would get out of hand. I know people are probably already doing these things because it is human nature and human nature is consistent and predictable, and I think it is more dangerous than it is worth.

Chair Ohrenschall:

To follow-up on that, some of the concerns I have are, if you have a legislator in a state who wants a bill about regulating agriculture, and the drafting department uses some of these AIs like ChatGPT or Google Gemini to help write the bill—I am not sure I understand how they work completely, but what I have heard is they pull from the Internet, and they pull language from statutes. Recently in Nevada, we are working to modernize NRS and our *Constitution* because there is language in there from many decades ago that is not language we would use now. I believe Senator Robin Titus proposed a constitutional amendment to remove some words from our *State Constitution* that are offensive now and words we would not use to describe people who have mental health issues. I am wondering if a Legislator asked the drafting division to draft a bill about a certain issue, and if an AI program like ChatGPT or Gemini pulls from old statutes and old constitutions, is it possible they are going to pull some of these old terms and old ways of writing that are not as inclusive as we try to be now? Have any legislatures looked at the dangers of this technology and the way it pulls and looks at all the data on the Internet that exists, but may not be the way we want to draft legislation now? I wonder if any of the legislatures you have looked at have looked at that issue.

Mr. Clark:

This is definitely something that legislative staff are starting to look at. That is one of the main reasons why we are focusing on policies for usage right now. You bring up important points; there are a lot of risks in terms of sensitive data being released and used for training AI programs, especially ones that are outside of the legislature's purview. One way Legislators and legislatures are looking to address this issue is by having a more localized program, especially for drafting. If you talk to drafters about AI, a lot of them have that same sort of consternation, same sort of hesitance to use AI tools right now, especially ChatGPT or Gemini, as you said. That is a very valid concern and something we are hearing from other legislatures. But a lot of the programs that are more specific for drafting and are being used by drafters right now, some of those platforms are starting to look at the usage of AI, and one of the things they talk about is AI being a voluntary part of a package. If you do choose to use AI, potentially only have it use local data and not open it up to the Internet. Another layer you can tack on is to say legislature first and then bring in results from the Internet. Generally, what we are seeing are these program developers creating tools that are for a very specific purpose, and we are having these conversations with developers as well. Some of the important guidelines they are setting are making sure there is always an oversight mechanism for humans. Humans should never be taken out of the usage of AI. One of the things these companies are looking at is various controls and oversight mechanisms. For example, if bias is identified in some sort of results, how do you get in there as a drafter to ensure it is fixed and that is taken out of the algorithm? There are a lot of different controls that are being looked at, but those are all valid concerns, and those are something that legislatures are considering right now.

Chair Ohrenschall:

You mentioned seven states prohibit the use of AI in the Legislature. Do you happen to know which states prohibit the use of AI?

Mr. Clark:

I definitely will follow-up with you after the conversation. The results from the survey were confidential. I would have to reach out to those states because sometimes that was a

legislature-wide survey and sometimes that was for a specific division, but I would be happy to follow-up with you afterward.

Chair Ohrenschall:

If it is confidential, then I understand if you cannot share, but I think the Committee would be interested. Assemblywoman Miller and then Assemblywoman González.

Assemblywoman Miller:

First of all, I do echo all the same sentiments as my colleagues up in Carson City, specifically Senator Daly, sharing many of the same concerns for the same reasons, even when we are talking about displaced jobs for people. With this presentation, we have heard why people would be using AI. I think I need to get on the record: after decades of spell check and grammar check, it is still incorrect. It is discouraging to hear people would rely on that and Grammarly for things as important and life-altering as legislation and bills. I would like to know about states that are trying to proactively respond to their concerns, precautions, or safeguards around the use of AI. Going back to the real question in the room, how do we take back control once AI, computers, or mechanisms decide they are in control? What are the actual safeguards? Besides privacy concerns and all these other things, it is like the mechanism used to regain that is that actual mechanism. Can you speak on that? What can be done, or what are states already looking at that should be done?

Mr. Clark:

I would say it is an iterative approach. I think some of the program developers we have talked to in the legislative context are saying this should be iterative, this should not be something that is just implemented overnight if the legislature decides to use these tools. In terms of the impact on the workforce, another way that people are looking at this is that AI should not replace workers, it should help augment the work of workers. For drafting, it may not necessarily mean actually drafting a bill; it might mean providing references to other legislation that has a similar theme, or it could be something such as replacing a word throughout a document. There are a lot of different ways AI may be used. It is used to augment but not necessarily replace the human workforce.

In terms of the controls, from a legislative context, again leaving out ChatGPT and Gemini, some of those really large companies, from a legislative perspective, it comes down to setting parameters on the algorithms working with the developers so the people who are using those programs and the IT departments that are implementing those programs understand how they work and then understand those oversight and controls. One of the most important parts is limiting the scope of an AI application. That way the controls are a bit simpler in terms of seeing what it is actually doing and then interacting with the tool itself. Instead of having it be a comprehensive tool that you have, think of it as another software, just a more advanced software. This is not necessarily thinking for itself, but it is supplementing another program or it is a traditional service but very much enhanced.

Chair Ohrenschall:

Assemblywoman Miller. Any follow-up?

Assemblywoman Miller:

Yes please, Chair. I want all of us to take note of five to ten years from now when we go back to look at this hearing, it will still feel the same about where we are with AI and

technology. My question is, because it was not specifically answered, which states are looking at and what they are doing for those precautions?

Another question we should consider is in terms of liability. When it comes to liability issues, and especially as Legislators, we deal with a lot of private, sensitive, and emotional topics. For example, emails, and you brought up in your presentation earlier about being able to screen through what is spam and what are emails, and again, emotional, personal, and tragic stories and conversations we hear from constituents. In a case where the technology would make a mistake, who would that liability fall on? Does it fall on the individuals who chose to use AI, or does it fall on the companies that are producing that technology?

Mr. Clark:

I am not an attorney, so I cannot provide a comprehensive answer for you. But we have had questions from IT departments about that very issue. The way we have approached it and the way that we have tried to find answers for legislative staff who have asked that question is to look at the contracts. I think it will become incredibly important to make sure that language related to AI is very fleshed out in contracts. I think that is where legislatures are going to have the control and the protections for themselves if there is an incident involving these programs.

Chair Ohrenschall:

I am going to date myself here, but I am going to throw in another quote from that great movie that Senator Daly quoted. In that movie, the HAL 9000 computer tells the human that "no HAL 9000 computer has ever made a mistake or distorted information. We are all, by any practical definition of the words, foolproof and incapable of error." We need not worry, Assemblywoman Miller. Everything will be fine.

Assemblywoman Miller:

I feel so much better now, Chair. Thank you.

Assemblywoman González:

Hello, good morning. It is my first meeting back from maternity leave. This is awesome. I wish you were all here though. I wanted to get on the record that I have the same concerns as my colleagues. One of my questions or concerns is when it comes to you talking about translation for languages, I mean, Google cannot even get that right. I have a concern about how are we trying to make language access available accurately. One of my questions is, what are the potential biases in AI algorithms? How is that considered? What are you doing to address that to prevent any discrimination? Have there been any examples where the algorithm showed that?

Mr. Clark:

I would first say that the issue starts to get into how legislatures regulate AI. Bias, I think is first and foremost, one of the most prevalent types of bills that legislatures are looking at right now. We do have a website I can share after this hearing with a link, and it breaks down the different types of legislation states are considering to prevent bias in algorithms. As you mentioned, it is very common and challenging to remove bias from these algorithms because whatever data you put in to train it, is something that goes into the output.
One example I heard recently was if AI is trained on a statement that says "Ireland is the best country in the world," that is used to train the program. Not only will that come up as a

potential answer or a search result, but it could also impact other answers you may not think of. It is a very trivial example, but you can imagine other ways it can be used or that bias could impact real-life decisions. I do not know if I fully answered your question and I am happy to answer any follow-up.

Assemblywoman González:

It is a concern. I am a teacher and I am in a Ph.D. program. In the academic spaces, how do you prevent plagiarism by using technology?

Mr. Clark:

That is definitely something that has come up. I have been part of various webinars where people have brought up those examples. One way teachers have used to identify plagiarism is by feeding some of those responses back into ChatGPT or other programs. You could put the prompt that you gave to the student into ChatGPT and then if they come back with very similar language—I think over time you start to see, if you have ever played around ChatGPT or any of the other programs, that the answers provided start to look very similar. You can start to see patterns in the language. I think that is one way they are looking into this, but that is a question that is being asked across the country. It is something I do not think we have a definitive answer for right now.

Assemblywoman González:

Thank you so much.

Chair Ohrenschall:

Any follow-up, Assemblywoman González?

Assemblywoman González:

No, thank you Chair.

Chair Ohrenschall:

Senator Daly for a follow-up.

Senator Daly:

I do not know if it is exactly a question again either, but the follow-up for my colleague from the South who asked the question regarding the liability. I think lawmakers will have to take a look at how that works. You mentioned in your presentation that if you call the airline, you may be talking to a computer. I am sure we have heard the story recently where a woman called up and said, "What is your cancellation or your refund policy for this particular issue?" The airline did not have one, but the robot they were talking to went out and made one up and told the person this is the policy to get a refund. When the person came back to the airline and talked to a real representative, they said no such policy existed. The person said, "Yes, you did." I think the only way you fix that liability problem is if whoever authorized the use of the computer that gave bad information is responsible for that.

I was thinking to myself if people ask the computer a question, "How do you solve this?" Or "How do I do that?" If you put it in an application to the medical field and you are a hospital and you ask, "How do I maximize my profits?" I can imagine the computer coming back

saying, "Well, do not take Medicare patients. They do not pay as much as someone else." Or "How do I prioritize my resources?" It is going to start making calculations on where can I maximize my profit, who is going to get the best rate of return, and reimbursement on insurance. This patient is better than that patient, and they extrapolate and say, "Well, this person has resources outside of this, so they can pay, and this one cannot." The computer has too much control. You would have to make the CEO (Chief Executive Officer) of the hospital responsible for that. Then if the CEO wanted to control the computer too much, it just kills three or four patients and they need to get a new CEO, right?

I am saying this is very dangerous stuff, and I think the Legislature has got to move forward and answer that liability question and make whoever decided to put it into place, liable. That would slow it down and people would not be foolish. The computers have never ever made an error, Mr. Chair. I know it is a fact, but you start asking those questions, and it is going to start coming up with answers to answer the question, and it does not have any morals or any consideration.

Chair Ohrenschall:

I have a follow-up for Mr. Clark. In the legislatures you have surveyed where the drafting departments do use things like ChatGPT and Gemini to assist drafters, is there always a human who oversees the final bill or amendment before it goes to the committee or the Legislator?

Mr. Clark:

To my knowledge, we are not aware of any drafters specifically who are using ChatGPT and Gemini. I have heard on various webinars internationally and here in the U.S. of drafters who are very reluctant to have drafts from those programs presented to them even to work on as a base. That is primarily what I have heard in terms of usage of it. However, in terms of other drafting programs, specific to drafting they are more controlled environments. From what we have heard from different companies, a really important component in these programs is the levels of review. If you are using this tool, where is AI used in the process? You could limit AI to being the first review of a bill and providing grammatic voice suggestions, sort of like a grammar spell check, but an enhanced version of that. In terms of drafting a bill, we have not heard of legislatures doing that from the ground up. We have heard of it being used more as an enhancement. But I would say again, I think that is where the AI policies are important. We keep circling back to that. It is really important to define expectations of how these tools are used, including drafters. I can imagine a system where every time an AI function is used, it could be logged in terms of the bill itself. Creating segregated levels of control and then ultimately, you could have the lead drafter responsible if AI was used to augment that process or to be used to work on a bill. Perhaps there is a process for reviewing those bills or reviewing a sample of them by hand to ensure they follow the protocol. Because it is all speculation. But I have seen from talking to the programmers AI comes down to the oversight mechanisms that will need to be put in place by legislatures themselves to fit with their specific circumstances and conditions.

Chair Ohrenschall:

Assemblywoman González for follow up.

Assemblywoman González:

I had a follow-up question in our conversations. One thing I am interested in finding out more about or what this looks like in policy—we have talked about security and things like

that, but who is getting all this information? We recently found out Google was selling our data on Safari. What is it called, the Safari, where it is not supposed to track all your information? Then we came to find out it was tracking your information. I am curious to know with these translations, even a conversation about national security, how are we ensuring that data is not being sold?

Mr. Clark:

That is something that Legislators and legislative staff are talking about across the states. I would say first and foremost, one of the most important ways to ensure the data is not being sold or to ensure the best possible scenario that it is not being used inappropriately, is to have more limited programs with those contracts in an environment where that information is not communicated externally outside the legislature. Having an AI program for drafting, for example, you can choose what data would be used to train the program. It would have basic programming already when it comes in, and then it could be trained on the legislature's statutes only, so the history of the statutes and in the history of public bills. In that way, you would ensure that confidentiality was not being breached because technically, then the AI would be using publicly available data. That is one mechanism. The other mechanism would be ensuring staff are not putting confidential information into, for example, ChatGPT where there is no guarantee that the information you put in there is going to stay locally. Coming back to that idea of policies, that is really important, I am not saying that any states are doing this or that they should or should not, but legislative IT departments can geoblock certain sites. We have seen this with TikTok, but it could be used in other realms as well. There is a whole legal issue. I am not advocating to do it or not, but it is looking forward. You can implement policies; you can have programs that are more limited so they are easier to control; or you can prohibit usage. Those are three strategies I would give in response to your question.

Assemblywoman González:

Thank you so much for that answer. I was talking about incognito mode from Google. We were told with this service your data would not be shared. I think I heard more about the security aspect. I am more concerned about selling our data. Let us say I am a Legislator who is using these to write policy or what have you. Am I now going to be targeted by credit card companies? Am I going to be targeted based on what I am putting into that? I do not think there is enough information out there right now because it is still so new. But I definitely think that it is absolutely a concern. Then again, whether you are putting something confidential in there or not, it is learning what you are putting in there, right? I think, again, the data sharing is a concern, but I definitely appreciate your answer and I know that it is still in its infancy, but it is a concern I wanted to put out there.

Chair Ohrenschall:

To echo some of Assemblywoman González's concerns about bias, I am worried that if it is used by a drafter and the program looks at historical statutes and amendments and constitutional language, maybe something will be pulled out that might influence the drafting and in a negative way based on what we are trying to accomplish now. I am a little worried about that. You mentioned two terms that I need defined. You mentioned "geoblocking" and that the program uses an "iterative process." Could you explain those?

Mr. Clark:

In terms of an iterative process, when a lot of companies are talking about a whole suite of products that are in the background of all its functions—you would have one program, for

example, you started using YouTube for transcription and see if that works for you and if it is accurate enough or if it is a tool that you want to use. Then if perhaps that does not work, you try a different tool, or within a specific tool. If you have a drafting tool, an iterative approach would be to use certain components of it. You could take the most discreet usage of the program. It only uses the existing case law and previous bill drafts and statutes and only uses it, for example, as a grammar check, potentially for voice to ensure it matches the previous citations and the previous language that is used for that particular legislature. Within that, it could just be a comment on the side. It would not necessarily implement it; it would just give suggestions for enhancing a bill. Artificial Intelligence would never be able to manipulate the bill itself. It could just give suggestions. That is the kind of an idea of an iterative approach. If the legislature is satisfied with that level, they could move up in terms of more functionality of an AI. Geoblocking is a way that IT departments can block certain websites, or geoblocking itself is blocking Internet traffic from a specific region. But you can also block specific websites. That would be the definition I would give.

Chair Ohrenschall:

Committee, does anybody have any questions? Mr. Clark, we appreciate your presentation, and if you could send us that additional information and the links to those websites, I would appreciate that and the Committee would benefit from that.

AGENDA ITEM VII—OVERVIEW OF THE INTERIM STRUCTURE OF THE NEVADA LEGISLATURE

Chair Ohrenschall:

We are now going to move on to an overview of the interim structure of the Nevada Legislature. We are very fortunate to have Ms. Proehl, our Senior Policy Analyst, GIS Specialist from the LCB Research Division here to present on that issue.

Ms. Proehl:

Today, I am going to be presenting on the interim structure of the Nevada Legislature, including an overview of the legislative and non-legislative committees as well as changes proposed to the interim structure last session through Assembly Bill 243, which was vetoed by the Governor (Agenda Item VII). As a reminder, as nonpartisan staff, I can neither advocate for nor against any policies that come before you. My presentation today is solely informational for the Committee.

As you are aware, outside of the 120-day sessions every odd year, the Legislature is in an interim period, and during this time, interim committees meet to study policy issues in depth, receive reports, testimony, and public comment, and formulate recommendations for new legislation for the next Legislature to consider. There are several legislative statutory interim committees that are governed by Chapter 218E of NRS. The Legislative Commission, consisting of 12 Legislators, 6 from each house, supervises LCB, approves regulations, oversees all other interim committees, and takes other actions on behalf of the Legislative Branch when the full Legislature is not in session. Its Audit Subcommittee receives final written reports of legislative audits conducted by the Audit Division of LCB. Its Budget Subcommittee considers fiscal issues that may require consideration by the Legislature at the next regular session, such as the Executive Budget.

The Legislative Commission also has a Sunset Subcommittee whose responsibilities include reviewing boards, commissions, and similar entities created by statute and determining

whether each entity should be continued, modified, consolidated with another entity, or terminated as well as recommending improvements to the entities that are to be continued, modified, or consolidated. The Subcommittee must review at least ten boards and commissions each interim and report its recommendations to the Legislative Commission. The Interim Finance Committee (IFC) is composed of the members of the Senate Committee on Finance and the Assembly Committee on Ways and Means from the preceding session and meets to administer the contingency account which was set up for emergency use by State agencies to supplement regular appropriations which fail to cover unforeseen expenses when the Legislature is not in session. The IFC also reviews State agency requests to accept certain gifts and grants and modify legislatively approved budgets. The IFC also has a Subcommittee on Education Accountability, which is new this interim. It was established by AB 399 of the 2023 Session. This Subcommittee is tasked with evaluating and making recommendations relating to accountability in Nevada's Public Education System in order to improve educational achievements and outcomes for students.

The Interim Retirement and Benefits Committee reviews the operations of the Public Employees Retirement System, or PERS, and the Public Employees Benefits Program, or PEBP, and makes recommendations to the PERS Board, the PEBP Board, the Legislative Commission, and the Legislature.

There are also nine joint interim standing committees (JISC) that meet during the interim to conduct in-depth studies of policy issues. These were newly established in 2021 by AB 443. This is only the second interim that they are in operation, and I will be going over these in more detail in a moment since they are newer. The Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency (TRPA) and the Marlette Lake Water System (Tahoe Committee) was created in 2003 to review the budget, programs, activities, responsiveness, and accountability of the TRPA and the Marlette Lake Water System. The Committee also communicates with members of the California Legislature to achieve the goals set forth in the Tahoe Regional Planning Compact. Finally, the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs was created in 2009 and reviews and makes recommendations on issues relating to those populations.

There are also a few non-legislative interim committees that are overseen by the Legislative Commission or that report to and/or make recommendations to the Legislature. The Nevada Youth Legislature (NYL) consists of 21 high school students appointed by Senators from each of the 21 State Senate districts. They participate in meetings, trainings, and activities throughout a two-year term to learn about representative government and participate in the legislative process. The NYL may request the drafting of one legislative measure per session and lobby for its passage. During the 2023 Session, the NYL sponsored SB 80, which requires the development of education-related accommodation policies for students who sustain head injuries. This bill was passed and signed into law. The Board of Directors for Corporation for Public Benefit for Nevada Youth Legislature was created in 2011 to oversee the policies, practices, and finances of the NYL. The seven-member Board includes Legislators, representatives of the public, and when possible, former youth Legislators.

The Economic Forum is responsible for providing forecasts of the State's General Fund revenues for each biennium budget period. The Governor uses the Forum's December forecast in each even-numbered year to prepare budget recommendations presented to the Legislature the following January. The Legislature uses the Forum's May forecast in each odd-numbered year to balance General Fund appropriations with projected revenues.

The Nevada Silver Haired Legislative Forum, which consists of Nevada residents who are at least 60 years of age, identifies and acts upon issues of importance to aging persons. There

are 21 members nominated by State Senators for appointment by the Legislative Commission. Members serve a two-year term after which Senators can choose to nominate them for reappointment or choose to nominate someone new. The Forum is not allocated any bill draft requests (BDRs) [sic] [The Nevada Silver Haired Legislative Forum does receive one BDR request] but it may submit recommendations for legislative action to the Legislative Commission.

Going back to the JISC, as I mentioned, these were newly formed during the 2021-2022 Interim. Before their existence, there were interim legislative committees that studied issues specific in nature, such as child welfare and juvenile justice, industrial programs, energy, and special license plates. If the Legislature wanted to study something outside the limited scope of these standing committees, it would create a separate interim study committee through legislation. These interim committees were repealed in 2021 by AB 443 except for the Tahoe Committee and the Committee on Senior Citizens, Veterans and Adults With Special Needs. The nine JISC replaced these. They mirror the issue areas of the session standing committees. Additionally, the Legislative Committee on Public Lands that existed prior to 2021 became a Subcommittee of the JISC on Natural Resources. These committees consist of eight members, five from the Assembly, three from the Senate, and five alternate members, all of whom are appointed by the Legislative Commission. They are authorized to meet from November 1, following the adjournment of session, through August 31 of the following year. These committees are authorized to evaluate and review issues within the jurisdiction of their corresponding session standing committee, or they may be directed by legislation to study certain topics.

Additionally, the 2021 bill provided three specific carve-outs for required issues of study. Health and Human Services (HHS) must study issues relating to child welfare, Judiciary must study issues relating to juvenile justice, and LOE, this Committee, may study issues relating to governmental purchasing. Those first two carve-outs were provided to ensure that those two issues continue to be studied after the repeal of the Legislative Committee on Child Welfare and Juvenile Justice.

Each JISC may approve up to ten recommendations for BDRs for the next legislative session with the exception of three committees that receive additional BDRs. Health and Human Services gets an extra five for issues relating to child welfare. Judiciary gets an extra five for juvenile justice issues, and Natural Resources receives an additional four BDRs for issues relating to public lands based on the recommendations of the Subcommittee on Public Lands.

Last interim, after the Legislature operated under this new structure with the JISC for the first time, LOE identified some areas of improvement or general changes to the interim structure and ultimately recommended a BDR which became AB 243 that proposed the following six changes.

First, they made two clarifying changes. In the vacancy of a Chair for a JISC, the Vice Chair shall become acting Chair until the Chair is appointed. It also required an alternate member attending in a member's place to be of the same political party.

Third, the bill proposed to transfer duties to evaluate and review issues relating to governmental purchasing from LOE to the JISC on Government Affairs (GA) and to similarly require the Commission to Study Governmental Purchasing to submit its biennial report to GA instead of LOE as well. Governmental purchasing is within the jurisdiction of the Assembly and Senate Committees on GA, and these committees are generally referred bills

on this topic. This change would align the jurisdictions of the JISC more closely with those of the standing committees during the session.

Fifth, the bill would have repealed the requirement for the JISC on HHS to review regulations related to health care. This requirement found in NRS 439B.225 does not provide for the formal approval of regulations, and this review is separate from the review and approval by the Legislative Commission. Before the Legislative Commission had the authority to approve regulations, the Legislative Committee on Health Care would review regulations related to health care. When that committee was repealed in 2021, that duty was transferred to the JISC on HHS. However, since these regulations are now approved by the Legislative Commission, it is a duplicative effort for the JISC on HHS to also review these regulations and additionally, no other JISC has a requirement to review regulations.

Number six, the bill as introduced would have revised the submission date for applications to serve on the Nevada State Teacher Recruitment and Retention Advisory Task Force. It would have changed the date from January 15 of an even-numbered year to December 1 of an odd-numbered year. This would give the JISC on Education the time it needs to appoint these members to the Task Force. Right now that turnaround time is about two weeks between receiving applications and making appointments. This change would give the Committee two months in total to make appointments.

Assembly Bill 243 went through several revisions during the 2023 Session. Ultimately, ten additional changes to the interim structure were amended into the final version of the bill. First, it would have authorized the JISC to meet as early as September 1 after the adjournment of a regular session. Similarly, require members to be appointed by August 31 following such adjournment. This would provide for a longer meeting period so committees could have more options for meeting dates and more time in between meetings. It would also ensure the Legislative Commission meets in a timely manner to establish the interim committees for each interim.

Second, the bill would have made the Sunset Subcommittee independent of the Legislative Commission, renamed it as the Sunset Committee of the Legislature, allocated five BDRs to the committee, and aligned all other aspects of membership, organization, and operations with those of the JISC. This would give the Sunset Subcommittee more flexibility to fulfill its duties and streamline the administration of the committee with other interim committees. Currently, the Sunset Subcommittee must conclude its work by June 30 of each even-numbered year, and it does not receive any of its own BDRs. It must rely on the Legislative Commission to take up any of its recommendations. Additionally, the Subcommittee has six voting members, no alternates, and three non-voting members of the public. So this change would also change the membership of the Subcommittee in line with those of the JISC.

Third, it would have also aligned the membership and organization operations of the Tahoe Committee and the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs with those of the JISC. This would mainly affect membership and member appointment procedures.

The final enrolled version of AB 243 would have eliminated the Subcommittee on Public Lands and transferred its powers and duties to the JISC on Natural Resources, which would be renamed the JISC on Natural Resources and Public Lands. It would have also required that the Committee hold at least three meetings outside of Clark County, Washoe County, and Carson City. The Subcommittee on Public Lands assumed the duties of the previously existing Legislative Committee on Public Lands. However, the JISC on Natural Resources

may already study this issue. Additionally, the Subcommittee is not allocated any BDRs, and it must report back to the full interim Natural Resources Committee. This change would streamline the operations of the interim Natural Resources Committee while retaining the customary practice of the previous Legislative Committee on Public Lands to meet in other parts of the State. Additionally, allow the full committee to partake in those roadshow meetings.

Number five, the bill would have changed the JISC requirements for approving recommended legislation from a vote in favor of the majority of Senators on the committee and the majority of Assembly members on the committee to a vote in favor of at least five members of the committee.

Number six, the bill would have transferred certain duties that are fiscal in nature from the JISC on the Judiciary to the IFC. With the repeal of the Committee on Industrial Programs in 2021, its duties were transferred to the JISC on the Judiciary. However, some of these duties are possibly better suited for the IFC to handle. These include reviewing State-sponsored industry programs to determine if they are operating profitably, recommending whether a prison industry program that incurs a net loss over two consecutive years should be continued or terminated, and reviewing proposals submitted by the Department of Corrections for expenditures of the Prison Industry's Capital Projects Fund.

Number seven, the bill would have required the Governor's Office of Finance, the Office of the Attorney General, and law enforcement agencies to submit certain reports to the JISC on the Judiciary. The Committee identified that it would be helpful to receive certain information relating to practices of the State Board of Parole Commissioners, criminal sentences imposed in the State, use of force data, and projections on the annual number of persons in facilities. The bill would have also changed the submission date of the report submitted to the JISC on Education relating to instruction on genocides from October 1 to July 1 of each even-numbered year. Since the JISCs must complete their work by August 31 of each year, the current deadline for this report may require the JISC on Education to request an additional meeting to meet beyond August 31st to consider this report.

The bill would have also eliminated the requirement for hospitals to submit certain staffing committee reports to the JISC on HHS. This change was recommended by the Nevada Hospital Association (NHA). The NHA had identified the submission of these reports as a duplicative effort to ensure compliance with the mandates of staffing committee laws. To ensure compliance, the NHA developed an audit tool and worked together with hospitals to review their policies and procedures and make recommended changes when appropriate. In addition, the Bureau of Health Care Quality and Compliance annually audits the hospitals for compliance with staffing committee laws, and provides them with a Department of Health and Human Services star rating that must be posted at all points of entry and exit.

Finally, the bill would have clarified that Legislators and legislative staff are not prohibited from undertaking or attending legislative committee investigative meetings, events, or trips under the Nevada Lobbying Disclosure and Regulation Act. Currently, under this law, Legislators and legislative staff may not accept anything of value from lobbyists except under certain circumstances. One such circumstance is to attend educational or informational meetings. This proposed change would clarify that meetings, events, or trips in connection with a legislative committee are also exempt from the gift prohibitions under the Act.

Assembly Bill 243 was vetoed by the Governor, so all these 16 provisions I just went over were not implemented into law, but they were outlined for the Committee's information today in case they would like to consider any of these. I have included some links to some Research Division publications that provide additional information about the interim structure. All of these can be found through the link on the slide (Slide 8) including bulletins, or summary reports, for previous interim committees that detail their activities and recommendations. That concludes my presentation. I would be happy to answer any questions.

Chair Ohrenschall:

Before I go to Members, I just had a couple of quick questions. Going to the non-legislative interim slide, I wanted to verify that the NYL has one BDR but Nevada Silver Haired Legislative Forum does not have any BDRs currently under statute. They need to ask the Legislative Commission for a BDR, is that correct?

Ms. Proehl:

That is correct. [sic]

Chair Ohrenschall:

That must have changed recently because I seem to recall they did have a BDR, unless I misunderstood. I thought it was a dedicated BDR for the Silver Haired Legislative Forum. I did not realize they needed to request one from the Legislative Commission, but I just have to go back and try to look and see if that changed.

Any questions, Members? Assemblywoman Mosca.

Vice Chair Mosca:

Thank you for this detailed information. I thought it was a very helpful overview. My question was more of a clarification question. Things like Members being able to be on Zoom or what happens when someone misses and the person who is able to come for come in their place, is that all under the Legislative Commission?

Ms. Proehl:

I believe that would be up to the chamber rule. I would want to defer to legal if possible if they know the answer off the top of their head.

Chair Ohrenschall:

Certainly. Would that be okay to go to Legal Counsel right now?

Mr. Killian:

Yes, that would be at the Chair's discretion.

Chair Ohrenschall:

Right. Assemblywoman Mosca, any follow-up?

Vice Chair Mosca:

Thank you, no.

Chair Ohrenschall:

Any additional questions here in Carson City? Down at the Sawyer building, any questions? Do any Members have questions on Zoom? [There were none.]

AGENDA ITEM VIII—PRESENTATION ON LEGISLATIVE MODERNIZATION

Chair Ohrenschall:

We are very fortunate to have Ms. Proehl also providing a presentation on the issue of legislative modernization. I believe some of the comments we had earlier from one of the representatives, Ms. Henderson from NCSL—when she commented about how the Nevada Legislature was one of the early legislatures to allow teleconferencing and what a tremendous job LCB has done, and our current staff, our past Director Erdoes, and Director Malkiewich and making sure we had the teleconference down to southern Nevada and then teleconferences to Elko. Then when COVID-19 hit, being able to log in on Zoom made the Legislature much more accessible. When I hear comments from NCSL about how our Legislature was one of the leaders at the forefront, having these technological assists that make it more accessible for our constituents to participate in, it makes me value everything that LCB has done through the years to bridge that gap around the State. Southern Nevada, Elko, and all parts now that folks can participate, even if they cannot make it up to Carson City or the Sawyer Building. Please go ahead with your presentation on legislative modernization.

Ms. Proehl:

This next presentation is about legislative modernization or the enhancement of the Legislature's capacity to perform its a role in the policy-making process (Agenda Item VIII). Legislative modernization generally refers to four things. Legislative sessions—how often does a Legislature meet and create policy? Is the desire to have a professional Legislature that meets most of the year, or is the desire to have a citizen Legislature where members have other full-time jobs? Legislator's salary—are Legislators compensated fairly for their work? Does the salary rate discourage certain people from running for office? Legislative staff—how much staff support is there both during the session and the interim to help Legislators do their jobs? Finally, technology and infrastructure—what new innovations can be implemented to increase the Legislature's ability to create policy and serve constituents?

I will be going over how Nevada compares to other states in these regards and some approaches other states have taken to modernize the Legislature. This presentation is not necessarily to prescribe a certain structure or advocate for one over another; it is to give a lay of the land and show how Nevada compares.

A little background on legislative sessions in Nevada—as originally drafted, the *Nevada Constitution* specified when the first three sessions of the Nevada Legislature would occur and provided that after the first two sessions, the Legislature would meet biennially in odd years. In 1958, voters approved a constitutional amendment providing for annual sessions, but then two years later approved an initiative returning to biennial sessions. The Nevada Legislature has held biennial sessions since 1867 except for the additional regular session held in 1960. As you are likely aware, sessions are limited to 120 calendar days. However, this was not always the case. As originally drafted, the *Constitution* limited

sessions to 60 days, though there was a period of time from 1909 to 1957 when sessions actually extended beyond 60 days, as the Legislature would "cover the clock" and proceed as if the 60th day consisted of an unlimited number of hours. This led to a constitutional amendment in 1958 to remove the limit on session lengths and allow sessions to continue for as long as necessary; however, it also limited the number of days a Legislator could receive a salary to 60 days. From 1989 to 1997, sessions were no fewer than 161 calendar days, with the longest occurring in 1995 and 1997 at 169 days. Following those two 169-day sessions, voters approved another constitutional amendment in 1998 to limit sessions to 120 days and provide that sessions would now start on the first Monday in February of an odd year. Nevada is only one of four states that has biennial legislative sessions. The other three are Montana, North Dakota, and Texas. The last state that switched from biennial to annual sessions was Oregon in 2011. Eleven states do not impose limits either through the state constitution, statute, or chamber rule on the length of regular sessions. California and Kansas are a bit unique in that the Legislature may meet for as long as it wants in odd years but is limited in even years.

Of these states with annual sessions, the legislatures either meet for equal lengths each year or hold a longer session in one year of the biennium. Some states also limit the scope of the second session in the biennium, usually to fiscal matters only for setting an annual budget. Sixteen states have equal-length sessions every year. It appears that out of these states, Alabama meets for the shortest, which is 30 legislative days, and Colorado is one of the states with the longest annual sessions that are prescribed by law. Of course, the states with no limit on annual session lengths may meet for longer. Nineteen states have different lengths of sessions depending on whether it is an odd or even year. Out of these states, Wyoming imposes some of the shortest limits of 40 legislative days in odd years and 20 legislative days in even years.

There are two states that have unique session lengths throughout the biennium. Mississippi's legislative sessions are usually 90 calendar days long unless it is the year after a gubernatorial election, in which case they will meet for 125 calendar days. Minnesota imposes a limit on the cumulative session length over a biennium, but it does not impose annual limits. I have also included some information on how many days state legislatures are actually in session per biennium since session limits may not provide an accurate picture of just how often the Legislature meets. For example, states with shorter regular sessions may have more frequent special sessions. It is also hard to gauge out of the states that do not set any limit on how long they are actually in session.

This table includes a ten-year average of the total days state legislatures were in session per biennium, and this includes regular and special sessions (Slide 5). This data is from a 2014 study done by some Harvard professors regarding legislative professionalization in each state. The table also includes population totals and ranks. You can see how there is somewhat of a correlation between state population and how frequently the Legislature is in session. For example, the Wyoming Legislature meets the least frequently, but it also has the smallest state population. Nevada at the time of this study ranked 38th in average total days in session out of the 50 states but also ranked around there for population in 2010 as well, it had the 35th highest population.

Legislative compensation is another component of legislative modernization and a factor in determining whether a state Legislature is considered full-time or part-time. Full-time legislatures typically pay a living wage to Legislators as if it is their full-time job. The salary rate for Nevada Legislators is $130 per day. This is in statute and it has not been changed since 1985. However, there was a bill in 2005, AB 462, that allows this rate to increase by an amount equal to the percentage increase that State employees receive. The amount for

the 2023 Legislative Session was around $160 per day. However, the *Nevada Constitution* limits the number of days that Legislators can receive this salary. It limits it to 60 days of a regular session and up to 20 days of a special session. Legislators also receive per diem allowance equal to the federal rate for Carson City for each legislative day, and they receive travel allowances and other allowances for expenses related to legislative business.

How does Nevada's Legislator compensation structure compare to other states? Well, it is not the lowest paying, but it certainly does not qualify Nevada as a full-time Legislature. Many states have not provided salary increases to Legislators for decades, or in New Hampshire's case, for over a century. Texas, which is another state that has biennial legislative sessions, pays Legislators an annual salary of $7,200, which has not seen an increase since 1976 and is still more than Nevada Legislators make over the course of a biennium. New Mexico Legislators are the only state Legislators who do not receive a salary; however, they do receive per diem, and they are higher paid than those in New Hampshire. Ten states pay Legislators an annual salary considered to be a living wage when considering session length and district size or the number of constituents that each Legislator is serving. For example, California and New York's legislatures meet for most of the year and they represent very large districts, and these Legislators tend to be paid well. Alaska state Legislators are also paid what is considered a living wage of $50,000 per year, considering that they are only in session for 90 calendar days each year and the state's population is about 750,000 people. There are eight states that do not provide per diem to Legislators, though three of those states that are bolded on the slide already provide a living wage to Legislators. Per diem is meant to cover the cost of lodging and meals while performing government duties.

Legislative staff support is one way to increase legislative capacity. When Legislators have access to professional staff, they have a greater ability to check executive agencies and government programs, build expertise on policy, and conduct constituent services vital to the communities that they represent. The map on this slide is of a 2021 NCSL legislative staff census and shows which states have larger staff sizes, in the darker green colors, and which do not employ as many permanent and session staff, in lighter green colors (Slide 8). Of course, the appropriate staff size may depend on how many Legislators each state has. It is also helpful to consider the average number of staff per Legislator. In this regard, Nevada actually ranks pretty high among other states. In 2015, Nevada ranked 6th overall for the number of total staff per Legislator and 13th overall for permanent staff per Legislator. The state that hires the most staff is California. They have a Legislature that operates essentially year-round and they have the same number of permanent staff per Legislator as they do total staff. North Dakota ranks at the bottom with essentially one permanent staff member per four Legislators.

It is helpful to have a sense of all the different state approaches to legislative sessions and legislative compensation, but a more useful comparison may be between states with a similar population size to that of Nevada. Arguably, larger states are going to have different needs and function very differently than smaller states. This table includes a comparison of the two states right above Nevada in population, Utah and Iowa, and the two states right below, Arkansas and Mississippi. Nevada is the only state of the five with biennial sessions and interestingly enough is in session on average the same amount as Arkansas and more frequently than Utah throughout a single biennium. Nevada Legislators are also the lowest paid of the group. Even though Utah Legislators make slightly less than Nevada Legislators per session, they have annual sessions so they receive that amount per year.

I have also included a comparison of states that have similar population demographics to Nevada. Population size might not tell the whole story because state populations also differ

in characteristics which may play a role in determining how the Legislature should most efficiently be structured. This table includes the four states that are most similar to Nevada according to the Daily Kos State Similarity Index. This index was actually used in a study done in New Mexico regarding legislative modernization. The Index goes from 0 to 100 with values closer to 0 representing greater similarity to the state in question. To find the values, the Index considers U.S. Census Bureau variables including age, race, median income, educational attainment, workforce industries, homeownership rates, and median home value, and more. There is no state that Nevada is super similar to as the lowest index score for states compared to Nevada is 29. This confirms that our State is unique out of these states. Nevada's Legislature meets the least frequently per biennium and is still the lowest in terms of compensation. Another interesting fact about this Index is that the Similarity Index score of the U.S. when compared to Nevada is 32, which means Nevada is actually most similar to the entire nation than it is to all other states besides Arizona and Texas, and I thought that was interesting.

I want to briefly touch on additional legislative modernization policies, but I will not spend a lot of time on this, especially since we have already heard from NCSL today. I will mention, and as the Chair mentioned, Nevada was really at the forefront of video conferencing technology. Nevada and Alaska were some of the first states to use this since they have large population centers that are far from the capital city. Virtual participation, especially the changes that have been implemented since the pandemic, not only provides more participation options to Legislators but also members of the public, which increases the effectiveness of the Legislature and increases its capacity for creating policy.

Family-friendly legislative building infrastructure, such as changing tables, pumping rooms, and on-site childcare can make legislative buildings more accessible to caregivers and families, whether they are Legislators or members of the public. This can ultimately encourage more people to participate in the legislative process and even run for office.

Another newer component of legislative modernization is paid family and medical leave for Legislators. So far, Colorado is the only state to implement this. Colorado has 120-day annual sessions and pays Legislators an annual salary of about $44,000. They have arguably taken care of the pay problem and were able to focus on this additional compensation and benefits policy for Legislators.

Finally, what are some approaches that states have taken to modernize the Legislature? In terms of legislative session length, many state legislatures study this issue and gather input to determine what changes to the current structure, if any, should be made. In 2005, Oregon created a Public Commission on the Oregon Legislature that included 30 members of the public representing all sectors of Oregon's population and regions. The Commission studied all aspects of the Legislature including annual sessions and compensation. Oregon also did something unique when it tested its capabilities for holding annual sessions before it moved to that structure. The Oregon Legislature called itself into special sessions in 2008 and 2010 to address budget issues and to show they could manage a short session and accomplish what they set out to do.

In terms of Legislator compensation, there are challenges to increasing Legislator pay. Often, pay is set through law which requires the Legislature to vote on its own pay raises. This is what NCSL calls the "pay problem," or the idea there are inherent political risks to raising one's own salary. To get around the pay problem, some states create compensation commissions to study and recommend or sometimes directly set Legislator pay. The responsibilities and powers of these commissions vary across states. In California, the commission directly sets the salary. In Connecticut, the commission offers

recommendations, but the General Assembly still votes on whether to enact them. In West Virginia, the Legislature is required to vote to approve the commission's recommendations. Similarly, in Alaska and Washington, the state legislatures retain the right to vote on commission recommendations or they can choose not to, and after 90 days, the commission recommendation has the force of law. Finally, in Texas, the ethics commission can give salary recommendations, but changes to legislative salary must be approved by ballot initiative. Other states tie pay to external factors like rate scales or pay indices which allows for automatic increases without legislation. For example, Massachusetts ties legislator pay to median household income. Pennsylvania Legislators receive cost of living increases tied to the Consumer Price Index. Legislators in Nevada and Florida receive salary increases when state employees do. There are potential benefits and disadvantages to each compensation-setting method. For example, even with the method to tie salaries to external factors, the raises could still create negative perceptions. For example, if the pay was tied to median pay in a year before a recession or tight budget and then the next year those Legislators still received those raises.

That is all I have for legislative modernization. I would be happy to answer questions at this time. Thank you, Chair.

Chair Ohrenschall:

Thank you, Ms. Proehl, for that excellent presentation. Members, are there any questions for Ms. Proehl? Senator Daly.

Senator Daly:

I was going to get a clarification on the per diem per legislative day. We have 120 days and theoretically, all of those can be legislative days, or is it just limited to the five days during the week for per diem?

Ms. Proehl:

Are you referring to Nevada or generally what other states do?

Senator Daly:

No, for Nevada, I think it is on page 6.

Ms. Proehl:

Legislators can receive a per diem allowance for each day during a regular or special session. Legislators also receive per diem during the interim for each day of attendance at a conference, training session, meeting, or seminar.

Senator Daly:

Is it for all 120 days or just the days during the week?

Ms. Proehl:

I believe it is each day that the Legislature is conducting business.

Mr. Killian:

Yes, it is basically any day that legislative business is occurring. It is not just the days of the session but also potentially days before the session where Legislator training is occurring. Any of those days where legislative activity is occurring.

Chair Ohrenschall:

I want to compliment the LCB staff, Director Anthony, former Director Erdoes, and former Director Malkiewich—the item about the family-friendly legislative building with the changing tables, pumping rooms, and on-site childcare. During the 2015 Session, my wife and kids were up and Assemblyman Garner's kids were up and their childcare was running around through the building and commandeering elevators, taking over, and it was great for them. I know it was tough on some of the folks here in the building. It is great there will be these options now for Legislators with kids. During another prior session when a friend of mine from the Boyd School of Law was up here on an externship with former Senator Segerblom, his kids came up, and it was always a challenge because they would come into the building and try to stay entertained. It is great that these options for Legislators and staff and maybe interns and externs who have kids will make this building much more family-friendly. That is fantastic. I have to take my hat off for that, for getting that accomplished.

Any additional questions, Committee Members?

AGENDA ITEM IX—PUBLIC COMMENT

Chair Ohrenschall:

We are now at public comment. I want to remind everyone who wants to make public comment to please state your name for the record and limit your comments to two minutes. Staff will time each speaker during public comment to ensure everyone has an equal and fair opportunity to speak.

[Chair Ohrenschall reviewed testimony guidelines.]

Is there anyone who wishes to make public comment? I am not seeing anyone come forward down in Carson City or Las Vegas. Boardcasting, if we can go to the phone lines if there is anyone who wishes to make public comment.

BPS:

If you would like to provide public comment, please press * nine now. Chair, the public line is open and working, but there are no callers choosing to participate at this time.

Chair Ohrenschall:

Thank you, Broadcasting, and if we could wait for another minute or so, in case someone's trying to call in, give them the opportunity to participate. Thank you Members for your indulgence.

Broadcasting, I wanted to check and see if anyone else had called in wishing to make public comment on the phone lines.

BPS:

Chair, the public line is open and working, but no other callers have joined.

Chair Ohrenschall:

Thank you, Broadcasting. Thank you, Ms. Proehl, for your presentation, the presenters from NCSL, our two registrars, and our Deputy SOS for Elections.

Thank you Members for your excellent questions. I think we have learned a lot and come up with some good ideas possibly for changes to things here in Nevada.

AGENDA ITEM X—ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 11:44 a.m.

Respectfully submitted,

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Bonnie Borda Hoffecker
Research Policy Assistant

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Haley Proehl
Senior Policy Analyst/Geographic
Information Systems Specialist

APPROVED BY:

_____

Senator James Ohrenschall, Chair

Date: _____

MEETING MATERIALS

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item V A	Mari Henderson, Senior Policy Specialist, Center for Legislative Strengthening, National Conference of State Legislatures (NCSL)	PowerPoint Presentation
Agenda Item V B	Mari Henderson, Senior Policy Specialist, Center for Legislative Strengthening, NCSL	Testimony Tips 2020
Agenda Item V C	Mari Henderson, Senior Policy Specialist, Center for Legislative Strengthening, NCSL	Legislative Social Media Policies and Resources
Agenda Item VI	Will Clark, Program Principal, Center for Legislative Strengthening, NCSL	PowerPoint Presentation
Agenda Item VII	Haley Proehl, Senior Policy Analyst/Geographic Information Systems (GIS) Specialist, Research Division, Legislative Counsel Bureau (LCB)	PowerPoint Presentation
Agenda Item VIII	Haley Proehl, Senior Policy Analyst/GIS Specialist, Research Division, LCB	PowerPoint Presentation

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