

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

**Seventy-Ninth Session
March 2, 2017**

The Committee on Legislative Operations and Elections was called to order by Chairwoman Olivia Diaz at 1:36 p.m. on Thursday, March 2, 2017, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Olivia Diaz, Chairwoman
Assemblyman Nelson Araujo, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Skip Daly
Assemblyman John Hambrick
Assemblyman Ira Hansen
Assemblyman Richard McArthur
Assemblywoman Daniele Monroe-Moreno
Assemblyman James Ohrenschall
Assemblyman James Oscarson

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Joyce Woodhouse, Senate District No. 5

STAFF MEMBERS PRESENT:

Carol Stonefield, Committee Policy Analyst
Kevin Powers, Committee Counsel
Julianne King, Committee Secretary
Melissa Loomis, Committee Assistant



OTHERS PRESENT:

Allison Stephens, Regent, District 4; and Vice Chair, Board of Regents, Nevada System of Higher Education
Jason Geddes, Regent, District 11, Board of Regents, Nevada System of Higher Education
Janine Hansen, State President, Nevada Families for Freedom
John Wagner, State Chairman, Independent American Party
Fred Voltz, Private Citizen, Carson City, Nevada
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce
Kent M. Ervin, Ph.D., Legislative Liaison, Nevada Faculty Alliance

Chairwoman Diaz:

[Roll was taken. Rules were explained.] The first order of business today is a bill draft request introduction. Bill Draft Request (BDR) 24-749 makes various changes relating to elections.

BDR 24-749 — Makes various changes relating to elections. (Later introduced as [Assembly Bill 257](#).)

Chairwoman Diaz:

The bill draft request relates to establishing vote centers where any person entitled to vote may do so. It also provides that an eligible person may register to vote for any primary or general election during early voting or on Election Day by providing proof of identity and residence. The bill revises both county and city election procedures. Please remember that voting in favor of introducing a bill draft request (BDR) does not imply commitment to support the measure. This action just allows the BDR to become a bill to be referred back to the Committee for a possible hearing. At this time, I will entertain a motion.

ASSEMBLYMAN OHRENSCHALL MOVED FOR COMMITTEE INTRODUCTION OF BILL DRAFT REQUEST 24-749.

ASSEMBLYMAN ARAUJO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN OSCARSON WAS ABSENT FOR THE VOTE.)

The next order of business is the work session on [Assembly Joint Resolution 2](#). A summary of [A.J.R. 2](#) is in the work session document ([Exhibit C](#)). The members have a copy before them. Copies are available at the back of the room and have been posted on Nevada Electronic Legislative Information System (NELIS). I will remind those present that a work session is not a rehearing of the resolution. I will not take testimony; however, if

a member of the Committee has a question, and there is someone in the audience who can answer it, I may invite them to clarify a point. Ms. Stonefield, can you please review the resolution?

Assembly Joint Resolution 2: Proposes to amend the Nevada Constitution to require the recognition of all marriages regardless of gender. (BDR C-690)

Carol Stonefield, Committee Policy Analyst:

Assembly Joint Resolution 2 was heard in this Committee on February 21, 2017. It proposes to amend the *Nevada Constitution*, which currently provides that only a marriage between a male person and a female person will be recognized and given effect in the state. Assembly Joint Resolution 2 would repeal that provision and provide that the state and all of its political subdivisions would recognize all marriages regardless of gender and treat all legally valid marriages equally under the law. During testimony, there was both support and opposition on the record. No amendments were offered, and there is a special note on the bill page. At present, the current constitutional provision is not enforceable since the 2015 United States Supreme Court ruling that the right to marry is guaranteed by the Fourteenth Amendment of the *United States Constitution*.

Chairwoman Diaz:

Is there any discussion on A.J.R. 2? Seeing none, I will entertain a motion.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS
ASSEMBLY JOINT RESOLUTION 2.

ASSEMBLYWOMAN MONROE-MORENO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HAMBRICK, HANSEN,
AND McARTHUR VOTED NO. ASSEMBLYMAN OSCARSON WAS
ABSENT FOR THE VOTE.)

Let the record show that Assemblyman Araujo has been assigned the floor statement. Our next order of business is to hear Assembly Joint Resolution 5. I will now open the hearing on A.J.R. 5 and invite Assemblyman Anderson and Senator Woodhouse to the table to present A.J.R. 5, which seeks to amend the *Nevada Constitution* to remove the provisions relating to the election and duties of the Board of Regents.

Assembly Joint Resolution 5: Proposes to amend the Nevada Constitution to remove the provisions relating to the election and duties of the Board of Regents. (BDR C-60)

Senator Joyce Woodhouse, Senate District No. 5:

I represent Senate District No. 5 in Clark County, and I am here today with Assemblyman Anderson to speak with you regarding Assembly Joint Resolution 5. Assemblyman Anderson and I have proposed a two-piece Nevada higher education

reform act in response to recent events. In the lead-up to this session and previous sessions, the Nevada System of Higher Education (NSHE) tried to control, alter, and misrepresent information provided to policymakers, including the Legislature. Obviously, this is unacceptable. Both Assemblyman Anderson and I would like to commend Chairman Rick Trachok and Acting Chancellor John White for taking interim steps to correct some of these issues. However, as policymakers, we must stay focused on building systems, not on individual personalities. Today we are not talking about personalities; we are talking about the system.

We owe the citizens of Nevada a culture of accountability in all levels of government. This higher education system belongs to all Nevadans. It is our investment in their future and the future of our state. Our reform efforts revolve around information. We need to improve the Legislature's access to information in order to help each of our universities and community colleges to thrive. Without accurate information, our hands are tied. We cannot properly advocate for our constituents and our communities.

I want to briefly go over the statutory part of our act, even though it is not being heard in the hearing today, in order to give the Committee the context of our initiative. We need to give the Board of Regents the proper resources to do their jobs effectively and to manage the sprawling system of higher education. We also need to vest the hiring and firing power over institution presidents with the Regents, not the Chancellor. We need to provide checks and balances inside of this process by strengthening the Regents. Furthermore, the individual institutional presidents should be required to present their institution budgets directly to the Board of Regents and the Legislature without the Chancellor playing favorites. Establishing regional advisory committees would be another way to give our higher education institutions a more direct connection to the community to publicly share information about their concerns and priorities. This is key to helping legislators make well-informed decisions. We also support expanding whistleblower protections for system employees to include disclosure of any information involving false or misleading statements made to the Legislature. Finally, bringing NSHE under the purview of the Spending and Government Efficiency (SAGE) Commission would allow state government to conduct a top-to-bottom review of the system. I would now like to turn the testimony over to Assemblyman Anderson.

Assemblyman Elliot T. Anderson, Assembly District No. 15:

I represent Assembly District No. 15. With that brief overview of the statutory piece, I would now like to turn to A.J.R. 5 and the constitutional issues that are a part of this initiative. Constitutional governance serves as an antiquated way to govern higher education. Nevada is the only state that has its entire system governed by one single elected board with constitutional status. There are different combinations of governing and advisory boards, such as constitutional or statutory and elected or appointed. The combination we have is unique, although there are different models. I am not saying that we are the only one who has a constitutional structure.

We should be clear about the history. The only reason that it is in the *Nevada Constitution* in the first place was to access the Land-Grant College Act of 1862 upon getting statehood

without any action on the part of the Legislature. It served as a self-executing provision. Ever since, we have jammed all the state's higher education governance and administration under this provision despite a laundry list of studies and analyses recommending reorganization of the state's higher education structure.

Somewhere along the way, we lost sight of the fact that the *Nevada Constitution* creates the Board of Regents and gives it the authority to govern a "State University which shall embrace departments for Agriculture, Mechanic Arts, and Mining." This is the curriculum stipulated under the Land-Grant College Act. As the Legislative Counsel Bureau (LCB) and legal scholars have repeatedly argued, all other authority over higher education is under the purview of the Legislature. For the Committee's reference, the land-grant university is the University of Nevada, Reno (UNR).

Furthermore, the minutes of the constitutional convention bear out, I believe, a misinterpretation of the original intent of the drafters. Originally, the *Nevada Constitution* provision on point was "the Legislature shall provide for the establishment of a State University which shall be under the control of the Board of Regents." However, one George Nourse, a lawyer from Washoe County, remarked on the floor, "I like the general idea of that [Board of Regents] very much, only I would suggest adding to it, 'whose powers and duties shall be prescribed by the Legislature' and not leave it to be inferred, perhaps, that they have absolute control. I will vote for it with that addition." In pertinent part, that is the effect of the constitutional provision that gives the Legislature that tie-in so there is not absolute control.

The final language of the article was modified pursuant to Mr. Nourse's concern. "The Legislature shall provide for the establishment of a State University which shall embrace departments for Agriculture, Mechanic Arts, and Mining to be controlled by a Board of Regents whose duties shall be prescribed by Law." Yet, the notion that Nevada's constitutionally defined unified system of higher education precludes a role for the Legislature persists and is often used to obstruct efforts to align higher education governance and administration with the state's demographic and economic needs. Indeed, NSHE regularly interprets this provision very expansively to suggest that it is the fourth branch of government, extending the constitutional authority of the Board of Regents to govern the three branches of the University of Nevada: UNR, University of Nevada, Las Vegas (UNLV), and Desert Research Institute (DRI). We have given them that authority in statute to govern those institutions; however, to act as though it is based upon a constitutional provision does not line up with the plain language of the *Nevada Constitution* and the intent of its framers. Of course, my opinion is not the final arbiter of the *Nevada Constitution*. That is the Nevada Supreme Court. In short, this provision has become an impediment to reform.

As recent events indicate, an elected part-time board composed almost exclusively of individuals with no to little background on higher education policy is unable to manage the sprawling higher education apparatus that has flourished under these arrangements. In practice, this arrangement results in too strong of an education bureaucracy.

In the meantime, Nevada is a bottom-dweller in higher education performance and is the only state of its size without a university attaining top Carnegie classification rankings. If the system is different and it is successful, then it is a model. If it is different and failing, then let us change it. It is time Nevada changes the way that higher education is organized.

Assembly Joint Resolution 5 is an important step in doing so. It will provide flexibility to the Legislature to consider different alternatives for the structure for our system in line with much of the discussion that has happened over the past five years. With that, I would like to make some housekeeping remarks. We have a mock-up to get rid of some technical issues that I encountered because I was not clear with the Legal Division, LCB, on my drafting instructions ([Exhibit D](#)). I would also like to note that there has been some information and confusion about the role of elections. We are not seeking to get rid of elections for the Board of Regents. There are statutes on point that provide for the election of the Board of Regents. We are not proposing to change that whatsoever. I want to make sure that is very clear to the Committee because there has been some confusion on that. I would be happy to stand for questions.

[Assemblyman Anderson submitted a PowerPoint presentation ([Exhibit E](#)), but did not refer to it directly.]

Chairwoman Diaz:

Before I open it up for questions, would you like to tell us about the substantive changes that we see before us in the mock-up?

Assemblyman Elliot T. Anderson:

It is a bit humorous. The document came back to give these responsibilities to the Nevada State Treasurer.

Chairwoman Diaz:

How did that make it in to your bill after Assembly Joint Resolution 6?

Assemblyman Elliot T. Anderson:

I appreciate the irony, and I think it is pretty funny. In terms of the substantive changes, we are just making it clear that the Legislature shall provide by law for the governance, control, and management of the university. That will ensure that the Legislature still has a duty to provide for higher education; it just gives us more flexibility in the statutes to design that system. Furthermore, it updates the language from the original language of the *Nevada Constitution*, and more specifically, cites the Land-Grant College Act of 1862. It would allow us to decide where to place those investment functions by law rather than trying to detail out whether it is under the Board of Regents or the Nevada State Treasurer.

Our intent with this amendment was to not change anything the Board of Regents is doing, but to make sure it is a statutory body like every other agency of the State of Nevada. That is the intent of this provision. It is not to change anything substantively with a constitutional amendment, but simply to bring governance for higher education into the

modern era and away from our designed structure from 1864. If it is okay, I provided a legal memorandum that Kevin Powers, our committee counsel, drafted for the interim study on the governance for community colleges ([Exhibit F](#)). I thought it might be appropriate for the Legal Division to give the official legislative interpretation of our powers under that act and the intent of the framers of the state constitution.

Chairwoman Diaz:

Mr. Powers, I will invite you to comment on the balance of authority between the Legislature and the Board of Regents.

Kevin Powers, Committee Counsel:

I want to start with some basic principles and some history, and then get into the specific balance of power between the Nevada Legislature and the Nevada Board of Regents. First and foremost, there is no such thing as a fourth branch of government. I cannot say that emphatically enough. Nor is there any entity that is independent of the three branches of government. Every state officer and entity has to be connected to and derive its powers from one of the three branches of government, and only one of those branches of government. Obviously, the Board of Regents is not a judicial or a legislative entity. Therefore, it is an Executive Branch entity because like all Executive Branch entities, it is charged with carrying out and enforcing the law. In this case, it is carrying out and enforcing the law governing higher education.

The framers in the *Nevada Constitution* took a slice of the sovereign power given to the Executive Branch and dedicated that to the Board of Regents. That slice of sovereign power from the Executive Branch is narrow in scope for the Board of Regents. It only applies to the internal management of the internal affairs of the university. By contrast, the Legislature retains all inherent sovereign power of the people except where expressly limited by the *Nevada Constitution* or the *U.S. Constitution*.

The powers of the Legislature are broad. There has to be some sort of clearly implied limitation on legislative power for the Legislature not to be able to legislate in a particular area. Because the Board of Regents is a constitutional body and has a slice of sovereign power, there is a limitation on the Legislature's ability to legislate. The question that has persisted over the years in Nevada is what is the extent of the limitation on the Legislature's power with regard to the governance of the university? One of the main cases is *King v. Board of Regents*, 65 Nev. 533 (1948). There, the Legislature enacted a bill to create the Advisory Board of Regents. The Advisory Board of Regents was essentially a shadow board that had all rights and privileges of the full elected Board of Regents, except the advisory board could not vote on anything that the full Board of Regents could vote on. The Nevada Supreme Court found this unprecedented, unusual, and unique special legislation. They struck it down.

The fear of the court was that the Legislature would then create shadow bodies to provide advice to all the Executive Branch officers, so there would be an advisory board to the Governor and an advisory board to the Secretary of State, and so forth. Because of the

unique nature of the advisory board in *King*, it was struck down as unconstitutional by invading the sovereign slice of power that the Board of Regents had. However, in that case, the Nevada Supreme Court made clear that the Board's power to control the internal management and affairs at the university was subject to the traditional legislative rights that are recognized by the power of the Legislature to pass laws of general application.

The next major case was *Board of Regents v. Oakley*, 637 P.2d 1199 (1981). In that case, the university adopted a policy requiring professors to retire at the age of 70; however, the general law in Nevada prohibits age discrimination. The professors who did not want to retire said that the university did not have the power to dismiss them based on their age policy. In this case, based on *King*, the university argued that it had unique constitutional status that gives it virtual autonomy and immunity from the state's policy established by the Legislature. The Nevada Supreme Court flatly rejected that proposition. What the Nevada Supreme Court found is a generally applicable law of statewide application does apply to the university, as long as it does not unreasonably interfere with the internal management of the university. In that case, the court found that the general age discrimination policy did not unreasonably interfere with the university's age practices; therefore, the university was subject to that general age discrimination law.

The courts in other jurisdictions have also found, with regard to constitutionally created boards of regents, that they are subject to the legislative power to appropriate the public policy of the state and laws that regulate matters of statewide concern, as long as those laws do not unreasonably interfere with the internal management of the state university. Over time, there have been opinions issued by the Office of the Attorney General and opinions issued by the LCB Legal Division, each coming to contrary conclusions.

We believe, based on the history of the constitutional proceedings and the basic rules of constitutional construction, that any doubt, ambiguity, or uncertainty of the balance of power between the Legislature and the Board of Regents has to be resolved in favor of the Legislature because the Legislature is given the sovereign power of the people, and the Board of Regents can have no more than a small slice of power that is specifically provided in Article 11 of the *Nevada Constitution*. That gives you a background of the balance of power between the Legislature and the Board of Regents.

With regard to A.J.R. 5, the proposal is to remove the Board of Regents from the *Nevada Constitution*, but not to remove the Board of Regents from the law. By removing the Board of Regents from the *Nevada Constitution*, it is no longer a constitutionally-created body that has a sovereign slice of constitutional power. Instead, it will be like any other state Executive Branch agency created by statute. It will be subject to the governance, control, and management of the Legislature through the enactment of statutes. If the people approve this constitutional amendment, and it is submitted to the people in 2020, the removal of the Board of Regents from the *Nevada Constitution* would not change any of the existing statutes. The existing statutes would remain in play unless the Legislature passed legislation with prospectively effective amendments that took effect on the passage of the constitutional amendment. Even in that situation, the Board of Regents would exist under

a statutory scheme instead of having that constitutional slice of power. It could still exercise its statutory power, but it would not have that constitutional barrier. Therefore, the Board of Regents would be subject to the entire power and authority of the Legislature through regularly enacted statutes. I am open to questions.

Assemblywoman Bilbray-Axelrod:

It is my understanding that in 1969, the Attorney General ruled that UNLV was also part of the land grant along with DRI, because it is a university in Nevada. The LCB Legal Division subsequently had two decisions saying that UNLV was part of the land grant. The Board of Regents and NSHE have not codified that, but that was my understanding. Is that correct?

Kevin Powers:

Let me say for the record that both the opinions of the Attorney General and the opinions of the LCB Legal Division do not constitute binding legal authority or precedent. They are given just as much persuasive weight as the courts think proper based on the citation of authority and legal reasoning included in them. Our evaluation of the Attorney General's opinions from the 1960s is that they are not supported by sufficient legal authority and legal reasoning that follows the rules of constitutional construction. Nevertheless, the Board of Regents has taken the position that the term "university" in Article 11 of the *Nevada Constitution* means all forms of higher education must be subject to the exclusive control of the Board of Regents. The Board of Regents believes UNLV, Nevada State College in Henderson, the community colleges, and all of those higher education institutions fall within the term "university" as used in Article 11. Therefore, they believe they have exclusive control over all those institutions, including anything dealing with the land grants involving those institutions. By contrast, the LCB Legal Division believes that the term "university" is limited to the actual university envisioned by the framers, which is an institution of higher education that provides four-year degrees and that type of specific college-level education.

However, if you look at the structure of Article 11, it mentions three types of institutions. It mentions common schools, which are traditionally K-12, and it mentions universities. In the middle, it mentions normal schools. At the time, the term "normal school" meant a two-year teaching school where teachers were prepared to teach students in the common schools. It was essentially a version of the two-year associate degree for public school teachers. As you look at the structure of the *Nevada Constitution*, it provides that the Legislature has the authority to regulate all departments of schools from the primary to the university. What that means is that the Legislature has authority over the common schools and the normal schools. Since normal schools were traditionally two-year schools, it would imply that the Legislature has the power over community colleges, and those institutions do not have to be vested within the exclusive control of the Board of Regents.

As a matter of policy in the 1960s, the Legislature decided to give control of the community colleges to the Board of Regents, but we believe the Legislature was not required

to by the *Nevada Constitution*. The Board of Regents has a different perspective. The memo that Assemblyman Anderson mentioned that is on NELIS ([Exhibit F](#)) goes through a very detailed analysis of why we do not believe community colleges have to be subject to the control of the Board of Regents. Then again, there is the analysis of a balance of power dispute between the Legislature and the Board of Regents. They broadly interpret their power, whereas technically the rules of constitutional construction say the broadest power has to be given to the Legislature, and all other branches of government have to be given specific, narrow powers. Any doubt should be resolved in favor of the Legislature.

Chairwoman Diaz:

Are there any questions from the Committee?

Assemblyman Hansen:

I like the whole concept. I think that we have had a lot of problems with the Board of Regents. The hang-up that is coming through is that the verbiage in the bill proposes to amend the *Nevada Constitution* to remove the provisions related to the election and duties of the Board of Regents. It says this resolution basically eliminates the idea of voting on it. I think that is where there is a real backlash. Where do the voters fit into this?

Assemblyman Elliot T. Anderson:

There was confusion, and we could have made it clearer by making a digest that gave more of this history and explained the other statutory provisions that are still controlling. We have absolutely no intent to remove elections as a part of this process. We are not proposing that. We have no plan to do that. I want to be unambiguous. There is a statute on point that requires the election of Regents. We are not proposing to change that. I am not aware of anyone who is proposing that.

Assemblyman Hansen:

You and I have had a discussion about the Board of Regents and community colleges. I have a bill draft request that deals with similar issues. I think that overall this is a good idea. This may be an archaic aspect in the *Nevada Constitution*. Typically, I do not like to tamper with the *Nevada Constitution*. Some things you can mess with in statute, but the *Nevada Constitution* typically is something we do not mess with. You have a great point, and Mr. Powers pointed out it is an odd carve-out that does not really fit in the bigger scheme of things.

As a body, we should have a reasonable say in what goes on there. Consequently, because of this confusion about an even distribution of powers in spite of Mr. Powers' aggressive emphasis, there does seem to almost be a fourth branch of government because of the way this carve-out exists in the *Nevada Constitution*. I think this whole thing is probably a very good idea, but I would definitely want to make sure. I understand you are emphasizing it, but you better come up with some way to put a little oil on troubled waters

because it is clear that the number one reason people are objecting to this whole idea is that they do not want to lose the right to vote for people who are going to represent them on the Board of Regents.

Assemblyman Elliot T. Anderson:

I have discussed this with Mr. Powers, and we have discussed changing the digest to make it clear on the face that all those other statutes still apply. That is something that we can make clear fairly easily. I have been in discussions with some of the advocates who have been concerned about that and have made that clear personally. I know we have received a lot of the same correspondence. Those folks who receive that correspondence initially have received a correction about how it will work. We are making vigorous efforts to clarify that. It is important to think about constitutions because constitutions are basically the root of every bit of policy that this body does.

I want to leave the Committee with one of my favorite quotes. John Adams wrote to his wife, Abigail Adams, when he was serving as the continental ambassador to France. He mentioned how he had a discussion with a French member of the court. They asked him if they studied the arts in the United States of America. Obviously, we were not as developed as France was at that time. He explained to them that no, he studied politics and war so that his children could study commerce and navigation, so that their children could study the arts. The point of that quote, which is paraphrased, is that if you do not get the structures or the constitution right, it is very difficult to get the policy right. What happens in that constitution affects every bit here. That is why when you have a part-time Board of Regents, for example, that has this constitutional piece, and you have a part-time Legislature, there is not enough accountability at all levels. That is really what we are trying to do here. We are trying in the best traditions of self-government to create more checks and balances inside of this process to ensure that we have that culture at all levels in the Legislature and in the Board of Regents.

Chairwoman Diaz:

Just so the record is clear, this bill does not seek to change the ability to elect the Board of Regents. Is that correct?

Assemblyman Elliot T. Anderson:

That is correct. I am blanking on the statute, but I have verified that there is a section and that is the representation that I am making to the Committee. Mr. Powers, our legal counsel, can verify that if that is appropriate.

Kevin Powers:

Assemblyman Anderson is referencing *Nevada Revised Statutes* (NRS) 396.040. It provides that the Board of Regents consists of 13 members elected by the registered voters within the districts described in that chapter of NRS.

Assemblyman Daly:

To follow up on your last point you made, and I do not disagree, but I find myself in agreement with Assemblyman Hansen. However, having said that, we need to get the *Nevada Constitution* right, and that is what this provision is about. Even at the quickest pace, it would be on the ballot in 2020. That, in my view, should not stop the Legislature from going forward with some of the other reforms, and I think Senator Woodhouse mentioned some of those. I think there are some things that need to be done now to address some of these issues. Maybe we end up with a fight over some of these issues, but I think the *Nevada Constitution* is on our side, and I would not want to wait for that. I hope that that is not the plan.

Assemblyman Elliot T. Anderson:

I think I can speak for Senator Woodhouse and myself and say that yes, we agree. We are proceeding with reform efforts that are designed to protect the legislative process to be sure we are getting accurate information. That is where our focus really is. We think that is very important in order for us to be effective for our constituents.

Assemblywoman Bilbray-Axelrod:

Thank you so much for bringing this bill up because it is something that has been a thorn in my side for a long time. Without mentioning names, it is a lot harder to put the genie back in the bottle once power goes out. I think this bill will bring us a lot of accountability, such as with the hiring and firing issue. I am curious that you mentioned the regional advisory boards. Have you thought through what those will look like?

Senator Woodhouse:

We have another bill draft in process that is going to put some structure to that plan. We will be back here with that bill as soon as it is introduced. While I am on the microphone, I would like to state for the record that it has never been our intent to change the fact that the Board of Regents would be elected by the people. I want everyone to realize that.

Assemblyman Elliot T. Anderson:

Just to add, we are just waiting for it to come back from the Legal Division. It is just one of those things. We have given our approach to it, and now we are waiting to see how the language comes back. That will probably go to a different committee, but we wanted to make sure the whole context of what we were doing was in mind for this Committee. This is a very important part of that. As you heard with the *King* decision, we have to try to find a way to constitutionally structure those regional advisory committees. It is similar to the Advisory Board of Regents, although we are trying to make it dissimilar to pass constitutional muster.

Chairwoman Diaz:

Are there any further questions? Seeing none, I will open up testimony in support of A.J.R. 5 in Carson City or Las Vegas. I do not see anyone coming to the table, so we will go ahead and go to opposition to A.J.R. 5 here in Carson City.

Allison Stephens, Regent, District 4; and Vice Chair, Board of Regents, Nevada System of Higher Education:

I want to start with saying that I absolutely agree with Mr. Powers that the *Nevada Constitution* gives the Board of Regents very limited authority. I think that is important because it is recognition of the specialized attention that higher education really needs. Right now, we have a Board of Regents whose sole function is to study and understand higher education and all the intricacies that are involved therein. We started talking about things like curriculum, tenure, shared governance, and workforce development. Those are the only issues that we are focused on. That is the only charge that we have, in addition to the fiduciary responsibility. The governance by a Board of Regents allows for that specialized attention, but it also ensures that higher education governance remains responsive to the public.

I want to segue there because it is important that the Board of Regents is elected. People need to have some input on who is acting in this governance role, particularly because so much state money is spent in higher education. What I think is important is that removing this piece leaves us open to not having an elected board. Right now, the *Nevada Constitution* secures that we will have, at a minimum, five elected members of the Board of Regents. The Board of Regents could choose to do something, or the Legislature could choose to have a hybrid board in some fashion. Right now, because it is in the *Nevada Constitution*, there has to be a minimum of five people who are elected, so Nevadans have a say in whether they will participate in the Board of Regents. I think that is critical.

The other piece that I want to highlight is that I know what I have witnessed, and I know several of you have as well. What I have seen over the past few years is that in 2014, we had a red wave. In 2016, we had a blue wave. One of the things that we need to make sure of is that higher education is not subject to political changes. I have a six-year term. Many of the things that we do in higher education take four, five, or six years to turn around. We see all of these political changes. Right now, having this sort of separate Board of Regents with a little bit of a barrier protects us from some of those pieces, but it also allows us to engage with the Legislature as partners.

We enjoy the opportunity to engage with legislators and hear ways that we can improve. I personally participated in the Senate Bill 391 of the 77th Session interim study on community colleges. I learned a lot about government structures across the country; things we can do to improve community colleges in our state; and how we can pay better attention to those institutions and try to lead the charge in figuring out ways to do that. We took the recommendation to create the system within a system. Right now, we are in the process of hiring a Vice Chancellor over community colleges.

I personally am participating in the Association of Community College Trustees advisory committee related to other systems around the country. We are taking that advice. We enjoy that relationship, but we also like the idea that there is a little bit of a safeguard

from some of the political changes that happen so frequently within the Legislature. That is also in conjunction with our Governor as well. Various individuals from NSHE participate in the industry sector councils. We have really worked hard to try to refocus our attention on workforce development and on helping to create the new Nevada.

I have with me Regent Geddes who is going to go into a little more detail, but I also wanted to quickly address a couple of things that I have heard. First, I want to make it really clear that the Board of Regents hires and fires all presidents. We are in the process of hiring a president for Great Basin College. I am engaged in that process. Over this summer, we hired a president for Truckee Meadows Community College. A couple of years ago, we hired a president for UNLV. That is something that is solely within the purview of the Board of Regents. Because I am the chair of audit, I want to make it clear that we have external audits. We have a very robust auditing system. We are expanding that also. I have been participating in the expansion to also include compliance. We take that very seriously.

I want to make sure that we are not conflating some of these issues. We have talked about a whole slew of things, and we went through the Senate Bill 391 of the 77th Session interim legislative study where we talked about some of the varying government structures. There are many areas where the Legislature has authority. I do not want to get this all confused. What I saw in the proposed legislation was that we would remove the Board of Regents from the *Nevada Constitution*. I think we are looking at that, and that is what is going to be affected. What is entailed in that constitutional piece? It is the election of a minimum of five members of the Board of Regents. Today the Legislature has the authority to make other changes. I do not see how the Board of Regents could agree that would be the right move to make, but we certainly have agreed that there are other changes that we need to have.

The other issue that I wanted to correct is that UNLV has been able to access grants as a land-grant institution, so they have been able to argue that they are a satellite branch of UNR. They have been able to access federal grants. I am aware of that. That is something that is a possibility. We are looking into that a little bit further. That is something that I personally have been working on with the provost at UNLV. We have documentation. We know that UNLV has received federal money as a land-grant institution.

In addition to that, I want to address the issue of the fourth branch of government because I have heard that more here today than I have ever heard it in the higher education system. The first time I heard it was coming on as a new Regent. I think it speaks to this issue that there is a unique carve-out for the Board of Regents in the *Nevada Constitution*. That terminology has been used as a shorthand way to describe this unique position that is really not found in many other states. It is hard for people to wrap their brains around. It in no way implies that the Board of Regents and the Legislature are the same, that they are equal, or that it changes the authority of the Legislature. It is a term that I hear more in the media or in these types of settings. It is not something that the Board of Regents discusses.

In the instances I have heard it, it has been a shorthand way of describing where the Board of Regents fits in. We really do not have language that describes it because it is such a unique entity. It is something that is very uniquely Nevadan.

Jason Geddes, Regent, District 11, Board of Regents, Nevada System of Higher Education:

I want to agree with Mr. Powers. The Board of Regents believes it is a very small slice of sovereignty that they oversee. The Board of Regents thinks the election of the minimum of five Regents should be in the *Nevada Constitution*. Everything beyond that is the authority that the Legislature has given the Board of Regents through the years. We do not assert that we have control over all eight of the institutions. The Board of Regents has been given that authority by previous legislatures through appropriation acts and the Legislature telling the Board of Regents to govern newly established institutions.

In my time in the Legislature and on the Board, we have seen a study of the government structure back in 2004. We had the community college governance structure that Regent Stephens sat on in 2014. In 2012, we looked at the funding mechanism. All of those studies were studies by the Legislature in interim committees that looked at how we were doing our business and then made recommendations. As Regent Stephens said, the Board has adopted and implemented everything that the Legislature has directed us to do under our small slice of sovereignty.

We understand that the Legislature has the budgetary control. The Legislature has all the statutory control. The authority that the Board of Regents has, beyond being elected, is the authority that the Legislature has given us throughout the years. Anytime you want to have a study, as we will see in the associated legislation that will be coming out, we are happy to participate and adopt the recommendations that the Legislature puts forward. We study higher education all the time, so we are very familiar with those issues. Dr. Brooks and our staff provide you with the information that you need.

The Board of Regents voted this morning to oppose A.J.R. 5 as written and consistent with the amendment that was delivered today because we do not think it is clear that the voting right will stay in perpetuity, which the *Nevada Constitution* holds.

The last point that I want to emphasize is that there is no hiring or firing of presidents that the Board of Regents does not do. We get recommendations from the Chancellor, but the Board of Regents holds hearings and personnel sessions in open public meetings. We discuss everything about terminating a president, which we have had to do and which is very uncomfortable in an open session. We have committees and discuss hiring of all presidents. None of that is delegated from the Board of Regents.

Chairwoman Diaz:

I have a question, and it is for either of you. You both have basically alluded to the fact that the Legislature dictates what the Board of Regents does. If you are already following the guidance of the Legislature, what is the problem with the *Nevada Constitution* and the law

saying that you will follow the direction of the Legislature? I am not making sense of why we would not want to clarify that NSHE is to be a body that is governed under the Legislature.

Jason Geddes:

We do not have a problem with the part of the legislation that says we follow the policies of the Legislature. I think the problem is if you strip out electing the five Regents from the *Nevada Constitution*, any future Legislature can eliminate that election portion and make it an appointment. Although it is not the intention of the bill sponsor to pull out the election, the way this bill is written and the way it would go on the ballot provides no protection that the Regents would be elected in the future.

Chairwoman Diaz:

I do not know if you needed to respond, Ms. Stephens, but after that, I want our legal counsel to weigh in on what is drafted in the proposal versus what is being interpreted. I think there is a disconnect.

Allison Stephens:

First, I would echo what Mr. Geddes said. The *Nevada Constitution* dictates there will be a minimum of five members elected. If we remove that from the *Nevada Constitution*, and it only remains in statute, it can be changed by a subsequent Legislature. The other piece is the issue that I discussed, which is the idea that we enjoy a very reasonable working relationship with the Legislature and have implemented every recommendation that the Legislature has given us. I think that is slightly different from being underneath and governed by the Legislature. There is a need to have a little bit of a buffer for higher education, which is why I am a nonpartisan, elected official as opposed to being directly underneath a partisan body like the Legislature. We are really in a unique position right now where we are able to take guidance from the Legislature, work directly with the Office of the Governor, but still remain a little bit separate, so we do not have higher education impacted by these waves that I have seen in election patterns.

Kevin Powers:

We have several things going on here, so we are going to have to take care of a few items before we answer your specific question. First and foremost, the *Nevada Constitution* provides that the Board of Regents must be provided for by election. It does not set a minimum or maximum number. The idea that there has to be at least five members of the Board of Regents elected is inaccurate. It comes from a misinterpretation of a case, *State v. Elwell*, 73 Nev. 187 (1957). At the time of *Elwell*, the Board of Regents consisted of five members. The Legislature passed an act that increased the number of the Board of Regents to nine members. As a temporary measure until the new four members could be elected, the Legislature provided for the temporary appointment of those four new members. The Legislature designated itself as the appointing body; however, there is a provision in the *Nevada Constitution* with regard to temporary appointments that have to be done by the Governor.

The Nevada Supreme Court said the Legislature could expand the number of the Board of Regents, and those members had to alternatively be elected, but the Legislature could provide for the temporary appointment as long as the Governor made those appointments. I think the misinterpretation is that because there were five Regents at the time, they now interpret it to mean there would always have to be five elected Regents. That is simply not true. The Legislature could create a Board of Regents of three members. As long as all three members were elected, that would be constitutional. That is just so the record is clarified. The clear provision of the *Nevada Constitution* is that regardless of the number of the Board of Regents, all members must be elected under Article 11, Section 7 of the *Nevada Constitution*. The Legislature cannot provide for a hybrid Board of Regents where a certain number of members are elected and a certain number of members are appointed. That is not constitutional under the *Nevada Constitution* as presently written.

What A.J.R. 5 does is remove that provision of the *Nevada Constitution* I mentioned, Article 11, Section 7, that says that the Legislature shall provide for the election of the new Board of Regents and define their duties. Once you remove that provision that provides for the election of the Board of Regents from the *Nevada Constitution*, it falls into the Legislature's hands to determine how the members of the Board of Regents are selected. The Legislature could continue the existing statutes and provide for the elections. However, the Legislature could change those existing statutes and provide for a hybrid Board of Regents, which would be the election of some members and the appointment for others, or the Legislature could change the statutes and provide for appointment of all the members. Once you take the election provision out of the *Nevada Constitution*, it becomes wholly within the discretion of the Legislature to determine whether the Board of Regents is elected, appointed, or a mixture thereof.

If the Committee was interested in moving forward with A.J.R. 5, ensuring the election of the Board of Regents, you could take the existing structure here, change Section 4 of the *Nevada Constitution* slightly, and make it clear that although the Legislature will retain ultimate control and provide by law for the governance, control, and management of the university, that the body that is assigned that power must be elected. You could still provide for an elected Board of Regents, but the Board of Regents would not have the constitutional slice of power it has now. It would be subject, like all statutory boards, to the ultimate control of the Legislature. You could still provide for election by the people without keeping any constitutional sovereignty with the Board of Regents.

Chairwoman Diaz:

Regents Stephens and Geddes, I take offense that you come before this Committee and tell us that politics gets in the way of good policy. I do not believe so. I believe that I have worked with colleagues across the aisle to ensure that we move Nevada forward for all of our folks. We also undergo elections, so if people are not happy with the job we are doing, they can vote us out. We do not come back, and we have new policy formers. I take offense to your saying that this is a very political atmosphere and we cannot do our jobs responsibly and shape good policy because we are of different parties. That is not very respectful.

When we are talking about a reasonable working relationship with the Legislature, let us be honest. In 2012, there was an interim committee to redo the state's funding formula. I do not believe that there was a working relationship that was entered with the Legislature. I believe it was dishonest. I think it was worked to a certain advantage to keep people without the necessary information to make informed decisions. That is not to be tolerated at any time. How is this current system beneficial for our students?

Jason Geddes:

I will disagree with you on the 2012 Interim. I served on that interim committee. The Nevada System of Higher Education gathered the data, had a consultant, and provided every piece of information to the Legislature's consultant, which was SRI International. SRI International worked under the direction of the chair of the interim committee, Senator Steven Horsford, and all activities we put in were vetted through SRI International and reported to the Legislature to come up with the formula funding study.

Chairwoman Diaz:

We will have to disagree on that. Per the article that was published in April 2016 in the *Las Vegas Review-Journal*, there was some correspondence via email that showed that the research and data being presented before the interim committee was being manipulated, and it basically dictated to us as to what was going to be presented.

Jason Geddes:

I will disagree with that. As we all know, newspaper articles are not always 100 percent accurate. I think there were two different studies that were combined into that interpretation of those articles in the *Las Vegas Review-Journal*. One of them was a different study that did not touch on any of the data or metrics that went into creating the funding formula that is used to appropriate dollars to the campuses.

Assemblywoman Bilbray-Axelrod:

I am not very happy where this has headed. Once again, I have to echo the Chairwoman's thoughts. You are nonpartisan, but you also serve as a committee member for the Democratic National Committee. Can you remind me what the situation was when the last Chancellor and the Board of Regents parted ways?

Allison Stephens:

I am not able to discuss someone's personnel issues in a public forum, nor in a private setting, because that is a personnel issue. I can say that when issues came to light, the Board of Regents was able to discuss his contract in a public forum. We chose to part ways. I was very clear on the record, as were a number of my colleagues, about the fact that we did not feel his behavior was appropriate. We decided to part ways.

Do you mind if I clarify my statement? My statement is that there is a difference in nonpartisan offices versus partisan offices. Nonpartisan offices are things like judges and so forth. That was not meant to be something that was disrespectful. I did not say that the Legislature could not create certain policies. What I said was that in the future, on an

ongoing basis, sometimes there are changes in the philosophies about how higher education is going. I think it is good to have a separate entity that can respond to the needs of the Legislature and implement what the Legislature has dictated, but which also has a little bit of a barrier from some of the changes. I also referenced that we have seen some significant changes in the makeup of the Legislature, even over the past two years. That was my statement. I, in no way, said that you all were incapable of creating good policy.

Chairwoman Diaz:

Are there any further questions?

Assemblyman Ohrensall:

Was the Board of Regents' vote regarding this resolution unanimous or divided? Were all members present?

Jason Geddes:

The final vote was 12-1 in opposition to A.J.R. 5, as it is removing the Regents from the *Nevada Constitution*. The Board of Regents discussed several other issues around it as far as reform, and we had a spectrum of opinions on things that we should look at. There were varying opinions on the appointed board, the size of the board, appropriation, and governance structures, but the 12-1 vote was specifically on removing us from the *Nevada Constitution*.

Assemblyman Ohrensall:

Were there any members absent? Who was the nay vote?

Jason Geddes:

There were no members absent. We have 13 members; it was a 12-1 vote. The negative vote was Regent Trevor Hayes, and he was speaking from the position of having a full-time, appointed Board of Regents where members are paid salaries and spend all their time working on the issues. It would be similar to a public utility commissioner-type role.

Assemblyman Ohrensall:

I have a brief question for our legal counsel. Even though the intent seems clear that the Regents would stay elected officials if this amended the *Nevada Constitution*, is there anything that we can do this session that would require a future legislative body to keep the Regents as elected officers versus, let us say, a body appointed by the Governor or a group of experts?

Kevin Powers:

The short answer is, if you want the Board of Regents to always be an elected board, that element must be in the *Nevada Constitution*. The reason is one Legislature cannot, through an ordinary statute, bind a subsequent Legislature without amending the state constitution. In order to ensure the Board of Regents continues to be elected in the future, the constitutional proposal in A.J.R. 5 must provide that they will continue to be elected.

Doing it by ordinary statute cannot be done. Having the Board of Regents elected does not mean they have to have constitutional sovereign power. You can simply provide for their election, and all sovereign power still retains with the Legislature in this proposal.

Chairwoman Diaz:

Are there any further questions? Seeing none, we will have the next set of people who wish to testify in opposition to A.J.R. 5.

Janine Hansen, State President, Nevada Families for Freedom:

First of all, I want to thank Assemblyman Anderson for meeting with me and clarifying this. I think the original A.J.R. 5 is very confusing and does not contain information that would clarify many of the questions that have been clarified here today. I especially appreciate that.

Secondly, I would like to appreciate some of the things Mr. Powers said today because this was my concern. If the Board of Regents was taken out of the *Nevada Constitution*, some future Legislature could eliminate the election and require them to be appointed or make them a board which would be partially appointed and partially elected. I have seen other legislation in this building do that to the State Board of Education and others. I have serious concerns about the wave of doing away with elected people that we have seen this time and last time. I appreciated Mr. Powers' and Assemblyman Ohrenschall's comment that to be sure we can assure the people that the Board of Regents will be elected, that has to be in A.J.R. 5. I think it is a very good compromise to take away the concern that people will be able to vote while at the same time to resolve some of the issues that the Legislature has. I appreciated the discussion today, which helped me to see that my concerns were not alone, and it was really the case that the future Legislature could make the Board of Regents unelected and appoint them. I am very much against that because I do not think appointed people are very responsive to the people in general.

Chairwoman Diaz:

I have a quick question. If the amendment clarifies that it is not affecting the election of the Board of Regents, would you be fine with A.J.R. 5?

Janine Hansen:

I would be far more comfortable with A.J.R. 5 if it actually said that the election of the Board of Regents would be guaranteed in the future. That is our most significant concern.

John Wagner, State Chairman, Independent American Party:

I must say I am fascinated by all the back and forth that was going on here. I am in agreement. I would like to see it remain in the *Nevada Constitution*, so it is guaranteed that the Board of Regents will be elected. This body may say it is guaranteed in statute, but it does not guarantee it in the future. Otherwise, I like the concept. Even if it is agreeable by the Committee, I think it needs some rewrites so that people understand that they are not losing their right to vote for the Board of Regents. Otherwise, I think it is a good idea. I think the Legislature should have oversight on anything, particularly since you supply the money.

Chairwoman Diaz:

Thank you, Mr. Wagner. Is there anyone in Las Vegas wishing to testify in opposition? [There was no one.] Is there anyone else in Carson City wishing to testify in opposition?

Fred Voltz, Private Citizen, Carson City, Nevada:

I was originally in opposition because of the possible removal of the election by the populace. I think that, perhaps, one of the ways of addressing the Legislature's ongoing concerns could be to take the chair of the Senate Committee on Education and the chair of the Assembly Committee on Education and make them permanent members. They are elected by the public, and it would be a way of having the Legislature's voice included as to what is going on there and perhaps to relay some of the concerns.

Chairwoman Diaz:

Is there anyone else? Seeing none, we will go to neutral. Is there anyone wishing to testify in the neutral position? We will start in Carson City.

Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:

I would like to thank the bill sponsors for bringing this bill forward today because it provides the opportunity to clarify the relationship between the Nevada Legislature and the Board of Regents, which our chair believes is long overdue. We are in neutral because the Las Vegas Metro Chamber of Commerce believes that the *Nevada Constitution* clearly states that the Board of Regents already falls under the purview of Nevada's Legislature according to Article 11, Section 4 and Section 7 ([Exhibit G](#)). In the opinion of The Las Vegas Metro Chamber of Commerce, these sections of the *Nevada Constitution* are the basis of the legal oversight by this body. I believe that we are agreeing with Mr. Powers on his interpretations.

Part of the dialogue today needs to reflect the governance structure and its alignment to meeting the needs of today's workforce, students, and employers. The workforce is quickly changing, and we need to review how our higher education structures respond to those changes. The Las Vegas Metro Chamber of Commerce believes government structure and alignment can be addressed by this body during this legislative session. As I have stated, the Las Vegas Metro Chamber of Commerce believes this legislative body has the legal right through its legislative bill process to address many of these concerns in NRS. There is a sense of urgency by employers and students regarding these changes that are occurring in Nevada's workforce, and we need to ensure our structure is in alignment to fulfilling those needs today.

Kent M. Ervin, Ph.D., Legislative Liaison, Nevada Faculty Alliance:

I represent the Nevada Faculty Alliance, the statewide association of university and college faculty at all eight NSHE institutions. The Nevada Faculty Alliance is testifying as neutral at this time, partly because of uncertainty regarding the effect and intent of the

proposed and amended resolution ([Exhibit H](#)). We have learned more here, but we have serious general concerns. We strongly believe that having universities and colleges that are independent of political influence is extremely important.

The Nevada Faculty Alliance, as an affiliate of the American Association of University Professors, works to ensure academic freedom for faculty members and shared governance by faculty members. To be effective as educators, professors must be able to discuss controversial topics without fear of political control that could change every two or four years. Having an independent Board of Regents who is responsible to the people through elections is important for insulating the universities and colleges from political influence. Potentially having a situation where a Legislature or a Governor could remove Board of Regents members for political reasons or fire the Chancellor or the institutional presidents would not be satisfactory.

Regarding what a future legislature could do, I would like to bring your attention to [Senate Bill 80](#) and a BDR that would take the Board of the Public Employee's Benefits Program, which is currently what this resolution would create, as a board of regents. Those bills would bring those boards directly within the structure of the Department of Administration and have the appointing authority for the executive director, which could be a Chancellor under the Governor. In the future, that could happen. There is a bill to do a similar thing this session. The Legislature, as we understand in the *Nevada Constitution*, has full power of the budget, constitutional authority to define the number of Regents, and the duties of the Board of Regents. The open meeting and public records laws provide transparency. They might not under different structures in the future. Regardless, those kinds of issues, and other issues that have been brought up today, can now be addressed through legislative action without waiting five years for a constitutional amendment that would only affect that small slice of sovereign power that we heard about from Mr. Powers. We are neutral, but we have strong concerns about taking out that small sliver of independence of the Board of Regents, particularly for the higher education system that is really special in its duties and responsibilities to the students and the citizens of Nevada.

Chairwoman Diaz:

I am just going to quickly make the comment that I do not see the Board of Regents' position as being as apolitical as it has been presented today. I know that they run elections. I know that they respond to constituents much like the legislative body and the Governor does. I have even known of individuals that go on and pursue congressional and commission races after their Board of Regents bid. Therefore, the notion that the Board of Regents is 100 percent pure and apolitical is not an accurate representation.

I do not see anyone else coming up in the neutral position.

Assemblyman Elliot T. Anderson:

We have been presented a rosy picture from the Board of Regents today. I think that is not exactly accurate. I think there are some very good personal relationships. For example, Chairman Trachok is a Marine infantry officer and the chairman of the Board

of Bar Examiners. He and I have a very strong relationship because we have a few common bonds. Senator Woodhouse likely has many of those relationships with individual Regents as well.

I heard the Regents are not really sure that they are the fourth branch of government. Maybe it is because they were not hanging out with the Legislature, because I have heard that incessantly throughout my terms in office since 2011. Furthermore, I know of many occasions upon which NSHE's legal counsel has contacted our legal counsel trying to get them to draft letters of unconstitutionality on different reform proposals. Furthermore, there is all the public information that we have heard about that I have no desire to get back into.

As far as the Board of Regents' hiring and firing issue, that is neither here nor there for this Committee because that would be a statutory piece. I wanted to note that a few chancellors ago, that power was given to the Chancellor. I may have my timing on this wrong, but I think that may be one of the good interim steps that Chairman Trachok has instituted that we referred to at the beginning of our presentation. That is something that drew a lot of attention after our reform proposal started to become public knowledge.

Furthermore, I have been in discussion with Chairman Trachok. I have put the ball in his court. I have said, "What are your concerns with too much legislative control?" For example, we heard about academic freedom. I concur. The ball is in their court to propose something that they can live with.

This is the first that I have heard of an election issue from the Board of Regents. I know for a fact the Board of Regents is split on that question, and I have shut everyone down who said we are not doing that. I have had those conversations where it was said we are not even going near it. That is a red herring that is being presented for the public's benefit today to distract from the issue. This is a distraction. We will be in discussion as to the next steps with the concerns of the hearing today, but that did not come up in any of my discussions with NSHE. I believe it is being presented to confuse these issues with what we are trying to do. I felt compelled to respond to some of these things and make clear that we are diligently trying to work with NSHE and put the ball in their court.

Senator Woodhouse:

I want to say that through the course of the hearing this afternoon, we have been taking notes about the concerns that have been raised. Assemblyman Anderson and I will be working on some possible additional amendments to this measure, and we will bring something back to you.

[([Exhibit 1](#)) was submitted but not presented.]

Chairwoman Diaz:

Thank you for presenting A.J.R. 5 today. With that, I will close the hearing on A.J.R. 5. Committee members, before I let you go, it has been brought to my attention that there is a request on behalf of Assemblyman Ohrenschall to make a motion.

Assemblyman Ohrenschall:

I should have brought this up earlier during the work session, and I apologize. When my colleague, Assemblyman Araujo, was circulating Assembly Joint Resolution 2, I did not get on as a cosponsor. This bill is important to my constituents and me, and I asked him if it would be all right if I could be added on as a cosponsor. He told me he was all right with that if you would be open to a motion to reconsider and perhaps to an amendment. I certainly would like to be added on as a cosponsor. I am not sure if anyone else in the Committee would like to be added on as well. If you would be open to accepting that motion, I would make it.

Chairwoman Diaz:

I am open to that motion.

ASSEMBLYMAN OHRENSCHALL MOVED TO RECONSIDER
ASSEMBLY JOINT RESOLUTION 2.

ASSEMBLYWOMAN MONROE-MORENO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairwoman Diaz:

The reason we are reconsidering the vote out of Committee is that we did not adopt an amendment to add cosponsors to the bill. I will accept a motion to amend and do pass A.J.R. 2 with the conceptual amendment of adding Assemblymen Elliot T. Anderson, Diaz, Monroe-Moreno, and Ohrenschall as cosponsors of A.J.R. 2.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO
PASS ASSEMBLY JOINT RESOLUTION 2 WITH THE
CONCEPTUAL AMENDMENT.

ASSEMBLYWOMAN MONROE-MORENO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HAMBRICK, HANSEN,
McARTHUR, AND OSCARSON VOTED NO.)

Chairwoman Diaz:

Thank you for your diligence today. This meeting is adjourned [at 3:05 p.m.].

APPROVED BY:

Assemblywoman Olivia Diaz, Chairwoman

RESPECTFULLY SUBMITTED:

Julianne King
Committee Secretary

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document on [Assembly Joint Resolution 2](#), dated March 2, 2017, presented by Carol Stonefield, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is Proposed Amendment 3109 to [Assembly Joint Resolution 5](#) presented by Assemblyman Elliot T. Anderson, Assembly District No. 15.

[Exhibit E](#) is a copy of a PowerPoint presentation titled "Nevada Higher Education Reform Act," dated March 2, 2017, submitted by Assemblyman Elliot T. Anderson, Assembly District No. 15.

[Exhibit F](#) is a memorandum dated March 11, 2014, written by Kevin Powers, Committee Counsel, Legislative Counsel Bureau, regarding the overview of state constitutional matters relating to community colleges and higher education, submitted by Assemblyman Elliot T. Anderson, Assembly District No. 15.

[Exhibit G](#) is written testimony presented by Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce, regarding [Assembly Joint Resolution 5](#).

[Exhibit H](#) is written testimony dated March 2, 2017, presented by Kent M. Ervin, Ph.D., Legislative Liaison, Nevada Faculty Alliance, regarding [Assembly Joint Resolution 5](#).

[Exhibit I](#) is a letter dated March 2, 2017, in support of [Assembly Joint Resolution 5](#) to Chairwoman Diaz and members of the Assembly Committee on Legislative Operations and Elections, authored by Sylvia Lazos, Private Citizen, Henderson, Nevada.