

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

**Eighty-second Session
March 21, 2023**

The Senate Committee on Legislative Operations and Elections was called to order by Chair James Ohrenschall at 4:18 p.m. on Tuesday, March 21, 2023, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator James Ohrenschall, Chair
Senator Skip Daly, Vice Chair
Senator Lisa Krasner

COMMITTEE MEMBERS ABSENT:

Senator Nicole J. Cannizzaro (Excused)
Senator Heidi Seevers Gansert (Excused)

GUEST LEGISLATORS PRESENT:

Senator Marilyn Dondero Loop, Senatorial District No. 8
Assemblywoman Heidi Kasama, Assembly District No. 2

STAFF MEMBERS PRESENT:

Nicolas Anthony, Policy Analyst
Diane Rea, Committee Secretary

OTHERS PRESENT:

Dylan Keith, Vegas Chamber
John Nolan
Scott Huber, Nevada System of Higher Education
Warren B. Hardy
Maureen Schafer, Council for a Better Nevada

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Gina Bongiovi, Vegas Chamber
Joseph Arrascada, Regent, Nevada System of Higher Education
James Dean Leavitt
Jim DeGraffenreid, Nevada Republican Party
Kent Ervin, Nevada Faculty Alliance

CHAIR OHRENSCHALL:

Today we will hear Senate Joint Resolution (S.J.R.) 7 of the 81st Session. We have Senator Marilyn Dondero Loop and Assemblywoman Heidi Kasama to present the bill.

SENATE JOINT RESOLUTION 7 OF THE 81ST SESSION: Proposes to amend the Nevada Constitution to remove the constitutional provisions governing the election and duties of the Board of Regents of the State University and to authorize the Legislature to provide by statute for the governance of the State University and for the auditing of public institutions of higher education in this State. (BDR C-944)

SENATOR MARILYN DONDERO LOOP (Senatorial District No. 8):

I am here to introduce S.J.R. 7 of the 81st Session which is the Nevada System of Higher Education (NSHE) Reform Accountability and Oversight Amendment relating to the governance of the NSHE.

The Nevada Constitution requires the Legislature provide for the establishment of the State University which is controlled by an elected Board of Regents whose duties are prescribed by law. Additionally, the Nevada Constitution provides the Board of Regents to control and manage affairs and funds of the State University under regulations established by law.

Senate Joint Resolution 7 of the 81st Session proposes removal of the constitutional provision governing the election and duties of the Board of Regents and its control and management of the affairs and funds of the State University. Instead, S.J.R. 7 of the 81st Session would require the Legislature to provide by law for the governance of the State University.

This resolution does not repeal any existing statutory provision governing the Board of Regents, including those providing for the election of board members. However, it would make the board a statutory body whose structured membership, powers and duties are governed by those existing statutory

provisions subject to any changes made through the legislative process. This is no different from other boards set in *Nevada Revised Statutes* (NRS). In the lead up to previous sessions, NSHE has sometimes tried to alter control or misrepresent information provided to policy makers, including the Nevada Legislature. This is unacceptable.

Assemblywoman Kasama and I are encouraged by steps taken in recent years to correct many of these issues. Even so, as policy makers, we must be focused on building longstanding and stable systems of governance, not on individual personalities. This higher education system belongs to all Nevadans. It is our collective investment in the future of our State.

Assembly Joint Resolution No. 5 of the 79th Session proposed some of the same amendments as S.J.R. 7 of the 81st Session and was passed overwhelmingly in two Legislative Sessions.

Senate Joint Resolution 7 of the 81st Session removes the Board of Regents from the Nevada Constitution but does not substantially change any higher education policy or procedure. It puts the Board of Regents and NSHE on par with every other governing board and State agency created pursuant to statute. Chapter 396 of NRS would continue to exist, would still comprehensively govern the Board of Regents and would still include the requirement the board is elected.

The purpose of S.J.R. 7 of the 81st Session is twofold. One, it allows the Legislature to exercise informed and measured governance of NSHE; and two, it allows more flexibility in considering reform proposals. Constitutional governance serves as an antiquated way to oversee higher education. The only reason the Board of Regents was placed in the Nevada Constitution was to access land-grant funding under the Morrill Act of 1862 without requiring action by the Legislature. Ever since, we have included all the State's higher education, governance and administration under this provision.

Despite a list of studies and analysis recommending the reorganization of the State's higher education structure, it is our belief the passage of S.J.R. 7 of the 81st Session would see a resurgence of strong support for NSHE and the Board of Regents.

Assemblywoman Kasama and I pledge our support to work with the NSHE administration and the Board on behalf of the students, their families and our communities to have the best system in our Nation.

ASSEMBLYWOMAN HEIDI KASAMA (Assembly District No. 2):

I am pleased to join Senator Dondero Loop in support for S.J.R. 7 of the 81st Session. Set forth in the ballot question arguments for A.J.R. No. 5 of the 79th Session, some other states have elected boards with constitutional status that control and manage institutions and programs of public higher education. Nevada is the only State in which a single elected Board with constitutional status controls and manages the affairs and funds of the State's entire system of public higher education.

In past cases before the Nevada Supreme Court, the Board of Regents has asserted it is unique. Constitutional status gives it virtual autonomy and thus immunity from certain laws and policies enacted by the Legislature. Based on legislative testimony, these assertions have given some people the impression the Board conducts itself as a fourth branch of government, and the Board too often invokes its constitutional status as a shield against additional legislative oversight and accountability.

As Senator Dondero Loop noted, things have improved in recent years. Nonetheless, this general governance structure needs to change. A good example of this is how the university's budget is administered. While the Nevada Constitution requires the Legislature to provide financial support for the operation of the State University, it also directs the Board to control and manage the funds of the State University. There is a clear divide between the Legislators' constitutional power to fund higher education and the Board's constitutional power to direct how those funds are spent. It gives the Board virtually unparalleled power within State government to control and manage higher education spending without the same level of legislative oversight typically applied to other Executive Branch agencies.

Another component of S.J.R. 7 of the 81st Session relates to the administration of federal land-grant proceeds which are dedicated for the benefit of the State University. The Nevada Constitution provides the funding derived by the State under the Morrill Act of 1862 must be invested in a separate fund and dedicated for the benefit of certain departments of the State University. If any amount of the separate fund is lost or misappropriated through neglect or any

other reason, the State of Nevada must replace the lost or misappropriated amount so that the principal of the fund remains undiminished.

Senate Joint Resolution 7 of the 81st Session clarifies and modernizes existing provisions of the Nevada Constitution relating to the administration of these federal land-grant proceeds because the State of Nevada must administer those proceeds in the manner required by federal law. Senate Joint Resolution 7 of the 81st Session will not change the purpose or use of those proceeds.

Senator Dondero Loop and I know S.J.R. 7 of the 81st Session represents a second bite at the apple. The language in S.J.R. 7 of the 81st Session is softened from A.J.R. No. 5 of the 79th Session and now calls for governance rather than control and management of the State University.

A biennial legislative audit of the State University and any other public institution of higher education established by the Legislature is also included in S.J.R. 7 of the 81st Session. This new gentler language and the audit provision will bring an enhanced level of transparency and trust our system of higher education so desperately needs.

CHAIR OHRENSCHALL:

I want to remind members that since this came out of the Eighty-first Session of the Nevada Legislature, to propose an amendment to the Nevada Constitution, it would have to pass in the same form. We cannot amend this.

DYLAN KEITH (Vegas Chamber):

Vegas Chamber supports S.J.R. 7 of the 81st Session and thinks if this bill passes and comes to the voters, it will move forward. It is essential to improve the Nevada System of Higher Education as a strong benefit to all Nevadans, not just students.

JOHN NOLAN:

I am speaking in support of S.J.R. 7 of the 81st Session. I support everything the previous people testifying stated. My support is not meant as an attack on any of the current Regents. Most of the Regents on the Board are new, and a lot of the problems came from Regents who are no longer serving. This is a good opportunity for a fresh start for higher education in Nevada. Accountability and transparency are important. This will address a larger cultural problem that has worked its way to each of the institutions. I hope this will allow a lot of

people to realize the importance of establishing clear procedures and making sure rules are followed fairly.

SCOTT HUBER (Nevada System of Higher Education):

I have been in the system for 25 years. During that time, the system was there to provide the needs of our students and Nevada. After 25 years, the system is preoccupied with self-preservation, control of the political discourse and management of the narrative. That is a fundamental problem we must face.

The governing system within Nevada System of Higher Education does not function appropriately. I must believe the Regents run for these offices with the intent of helping as best they can, but too often they do not understand the complexities of the system and that allows them to be manipulated. That is a major problem. I have seen too many presidential hiring committees serve the needs of the system and not the institutions. I have seen too many presidential evaluations corrupted. That does not serve the needs of the system, nor does it serve the needs of the institutions. The general counsels do not serve the needs of the system.

Bad apples are paid off and moved aside. They are not fired. That is a real problem. We are spending tens of thousands of dollars to pay off individuals when they should be let go for malfeasance. We are spending huge amounts of money for outside law firms to deal with situations the system will not deal with or does not want to deal with for political reasons.

Title IX offices are illegitimate on some of these campuses. They are not functioning properly. The funding formula is ill conceived. It serves the few at the expense of the many. The institutions have a significant number of problems because of this. The presidents, in some cases, run their institutions like private fiefdoms at the expense of the students, the faculty and all the resources we are using.

We have a real challenge in front of us. We need to figure out what is broken and fix it. We need to leave alone what is functioning properly, of which there is a major amount.

WARREN B. HARDY:

My experience on this goes back to 2005 when I was asked to chair an interim Committee to Evaluate Higher Education Programs. I learned at that point the

founding fathers of Nevada, the founders of the Nevada Constitution, intended for higher education to be a partnership between the Board of Regents and the Legislature. Through the years, that sort of slipped away. This is necessary to get the Legislature back in its rightful place. As a copilot of the organization and effort, it is your responsibility. As Legislators, you hear a lot of from your constituents on education—K through 12 and higher education. The Legislature controls the purse strings. The Legislature should be more involved in the policy making. I am here as a citizen in full support of S.J.R. 7 of the 81st Session and want to thank Senator Dondero Loop and Assemblywoman Kasama for bringing this forward.

MAUREEN SCHAFFER (Council for a Better Nevada):

I would like to thank the thoughtful comments of my colleagues who came before me in testimony and support of this bill. Our existing NSHE Board of Regents framework and governance structure, while appropriately supporting the State for many decades in the founding phase, has been outgrown by a Nevada with far more diverse, complex and advanced educational requirements for State students to adequately compete within the State's growing competitive economic environment here and increasingly anywhere in the world.

There have been many unintended consequences over time of not changing the system from its original 1865 constitutional structure to keep up with an evolving, aspiring and innovative Nevada. The establishment of the Board of Regents in the Constitution simply allowed Nevada to access the Morrill Land-Grant Act resources. Since that time, there has been a natural inclination for the State to place all its growing higher education assets into this original structure that was never meant to hold such a diverse entity, resulting in the most centralized higher education system in the Country—a single Board, one funding stream and a bloated administrative bureaucracy. When compared to other similar states, Nevada has 70 employees in its higher education office, who run 49 higher education academic institutions. Other systems have approximately 270 employees for 11 institutions. Times have changed in higher education; however, Nevada has failed to keep up, and we continue to pay for it.

Second, this autonomous constitutional claim we make has been utilized by NSHE leaders to criticize and block genuine thoughtful and progressive legislative efforts to check, oversee and reform various aspects of the system on behalf of our citizenry and economy, preventing the Legislature, business and

philanthropic community the ability to keep pace with Nevada's own community and economic development evolution and growing higher education needs as a State. This reality continues while more broadly international institutions now have cracked the top 20 in higher education school rankings that have always been dominated by U.S. universities. Birth rates are beginning to decline for the first time in decades, causing universities to scramble and compete for students across the U.S. and worldwide. In Nevada, we must upgrade to stay relevant or risk continuing to fall further behind.

Third, current constitutional protection—we need to continue this positive momentum for progress like all of you did with A.B. No. 416 of the 81st Session with the first audit of NSHE which found many multiple failings of the financial systems and controls.

GINA BONGIOVI (Vegas Chamber):

I am a member of the Board of Trustees and Government Affairs Committee for the Vegas Chamber. I am a three-time graduate of the University of Nevada, Las Vegas. The Vegas Chamber, as the State's largest and broadest space business association, is in support of S.J.R. 7 of the 81st Session. The Chamber has a long history of engaging in higher education matters. We are advocates for reform because workforce development continues to be a serious challenge for our members who are the job creators in our State.

The Chamber believes that the passage of S.J.R. 7 of the 81st Session is an essential component to reforming the State's higher education governance structure which is a crucial component of aligning the needs of today's students with the needs of employers. We recognize the demands on our workforce are quickly changing, and we need a governance model that will adapt to meet those challenges and opportunities. We must ensure our higher education structure is responding to these changes within the workforce. To do nothing would be a great disservice to the approximately 100,000 students who are enrolled in NSHE institutions across the State. Nevada employers need students who are ready to enter the workforce when they graduate from an institution of higher education in Nevada.

Our economy needs innovation and entrepreneurship through research which can drive meaningful economic diversification in our State. The Chamber believes S.J.R. 7 of the 81st Session would provide much needed clarity on the roles of the Board of Regents and State Legislature.

This resolution would enact governance reform stakeholders in our State are seeking. We recognize recent efforts by NSHE to align education and improve operations and community engagement. For the long-term benefits of both students and employers, we need to reform this higher education governance structure. This is good public policy based on sound reasoning, data and fact.

This is why S.J.R. 7 of the 81st Session passed with full bipartisan support and no opposition in the Senate in the 2021 Legislative Session with a vote of 20 to 0. We urge passage of S.J.R. 7 of the 81st Session so it can go to the voters in 2024.

JOSEPH ARRASCADA (Regent, Nevada System of Higher Education):

I am the vice chair for the Board of Regents of the Nevada System of Higher Education. The issues now presented by S.J.R. 7 of the 81st Session were debated and discussed by the Legislature for many years and became Question No. 1 on the 2020 ballot. The constitutional amendments presented by Question No. 1 sought to change nearly 160 years of Nevada history. The people of Nevada rejected those changes during the 2020 elections and now the voice of the people is not being respected. Senate Joint Resolution 7 of the 81st Session is a recycle of Question No. 1. This new resolution is questioning the voters will. Too many of your constituents feel this do-over is like an election denier of the same 2020 cycle. It diminishes the voice of the Nevada voters.

Senate Joint Resolution 7 of the 81st Session is not proposing to improve higher education in Nevada. It is not proposing to increase advanced research or workforce development for our communities. Most importantly, it is not proposing to increase any additions to help students, the delivery of instructions, the growth of campuses or the retention of the top faculty. This measure creates uncertainty, could significantly lower the morale of those working on each campus and obstruct Nevada System of Higher Education's immediate and long-term strategic plan.

Why destroy the core mission of the Regent, of the system? Proponents have argued whether the passage of Question No. 1 back in 2020 would bring forward accountability, transparency and oversight.

I have been on the Board of Regents for two and one-half years, watched multiple years of Regent meetings, was a product of Truckee Meadows

Community College and a proud graduate of University of Nevada, Reno, twice. I have seen the Board of Regents work together. We follow every single Open Meeting Law just as you do. All Board meeting votes are taken in full view of the public. This do-over is not for the will of the people. It is for a few individuals who feel it is necessary to remove the Regents and uproot the Nevada Constitution. We are Nevada. What we have in this State is nowhere else. It is not in Florida; it is not in the other states that have been described.

I appreciate the time in the moment that we can speak about the Board. We are here as one. We are here to unite Nevada and to work with the Regents of the south. We need to all work together for only one people, the students, the faculty and staff.

JAMES DEAN LEAVITT:

I am a former member of the Board of Regents from 2004 to 2016 and Chair from 2009 to 2011. When I was elected by my colleagues to serve in that capacity, I sent a personalized letter to all 63 members of the Legislature, asking each one of them if there was anything I could do during my year of service and subsequent reelection one year later to please reach out and share your concerns, your hopes, your dreams, your frustrations so I could convey them. I do not say this disrespectfully, but in those two years, not one member of the Legislature expressed concerns, frustrations, hopes or dreams.

When I came on the Board in 2004, there was a bill sponsored by Assemblywoman Christina Giunchigliani. Several years later it was defeated. We had another bill sponsored by Senator Joyce Woodhouse and Assemblyman Elliot Anderson. We look at trifling with the State Constitution, which should require the greatest scrutiny. People say we are the only State with one governance board overall. I think every state should be governed the same way.

Fifteen years ago, we had six members of our Clark County Commission indicted, but we did not see any appointed commissioners. We had a president recently who some were not fond of.

I must correct Regent Arrascada. This Body chose not to apply the Open Meeting Law to themselves. Why not? Is your work too important? Are you too busy? I think your work is important and you are too busy. Let us have a

yearlong Legislative Session. Let us have full-time Legislators. Let us have part-time Regents.

You want to improve the system, give NSHE the necessary funding to succeed. The only thing worse than elected Regents are appointed ones, and the only thing worse than elected Legislators are appointed ones because they are not accountable to the people. They never will be. Governor Joe Lombardo would call this the Nevada way. We have a citizen Legislature. I have extreme confidence in the Senate, Assembly and where this will go.

The only difference in S.J.R. 7 of the 81st Session and the one two years ago was the addition of a mandatory biennial legislative audit. The Legislature has always had audits. Democracy is messy. We have elections. For those few people who are sponsoring this bill, I do not see them running for office or making that kind of sacrifice.

JIM DEGRAFFENREID (Nevada Republican Party):

Nevada's Republican National Committeeman is in opposition to S.J.R. 7 of the 81st Session because this resolution is a first step to remove the constitutional process of electing the Nevada Board of Regents against the will of Nevada voters expressed in 2020. The sponsors point out this resolution makes no changes to the Board of Regents beyond removing its constitutional protection. We submit that when there is a move to remove protection, it is because someone feels those protections are in the way. We heard support testimony earlier where significant changes are desired.

Senate Joint Resolution 7 of the 81st Session is a persistent holograph having been rejected by voters in the 2020 election and then immediately brought back before the Legislature. Outside of Clark County, voters rejected the measure by 64 percent. In Washoe County, 61 percent voted against Question No. 1.

The Board of Regents is accountable to Nevada voters. Should the Legislature change the system and appoint Regents rather than having them elected? I refer you to one example from this Session, Assembly Bill 175, which extends the oversight of the Clark County School Board by creating appointed rather than elected positions.

ASSEMBLY BILL 175: Revises provisions governing boards of trustees of school districts. (BDR 34-692)

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Democrats hold a supermajority in the Assembly and the Senate. This means that hundreds of thousands of rural and conservative voters do not have representation.

That is why we voted against this resolution in the form of Question No. 1 when it was placed before us in 2020. In this environment, we are opposed to removing constitutional protection for Nevada voters who have meaningful oversight over the Board of Regents.

KENT ERVIN (Nevada Faculty Alliance):

I have submitted my neutral statement ([Exhibit C](#)) on the resolution.

CHAIR OHRENSCHALL:

I have received opposition testimony ([Exhibit D](#)) to S.J.R. 7 of the 81st Session.

SENATOR DONDERO LOOP:

I reiterate that this is not about elections. The resolution calls for elections of Board of Regents. This is about taking them out of the Constitution.

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CHAIR OHRENSCHALL:

The hearing on S.J.R. 7 of the 81st Session is closed. We are adjourned at 5:01 p.m.

RESPECTFULLY SUBMITTED:

Diane Rea,
Committee Secretary

APPROVED BY:

Senator James Ohrenschall, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
S.J.R. 7	C	12	Kent Ervin / Nevada Faculty Alliance	Neutral Statement
S.J.R. 7	D	12	Reva Crump	Opposition Testimony