

S.J.R. 7 Conceptual Amendment

Proposed by the Nevada Faculty Alliance, revised 4/15/2021

This conceptual amendment is offered as an alternative to [SJR7](#) as passed by the Senate. The Nevada Faculty Alliance appreciates the intent of SJR7 to reform the Nevada System of Higher Education and its relationships with the Legislature, but we believe there are better ways to accomplish its goals and to clarify the intent of the constitutional amendment to voters. We are therefore submitting this proposed conceptual amendment to SJR7.

NFA's amendment broadens the constitutional provision establishing the "State University" by removing anachronistic references to the specific departments originally supported by the 1862 Morrill Act. It makes explicit the authority for future legislatures to create institutions of Higher Education separate from the State University. The Board of Regents is retained in the Constitution, but the amendment clarifies that the Board is part of the Executive Branch and that its duties are prescribed by law. The ultimate authority of the Legislature to oversee the State University through enactment of laws is clarified by deleting the explicit constitutional broad authority of the Board of Regents to control and manage the affairs of the State University and its funds, leaving the governance duties of the Board of Regents to be determined by law. Recognizing the resistance of voters to relinquish their right to elect Regents, it retains elected Regents but allows additional Regents to be appointed. Importantly, the amendment adds a clearer protection for academic freedom than was in Question 1 ([AJR5, 2017](#)). The "Whereas" clauses are modified to focus on and to clarify the intent of the constitutional provisions being amended or repealed.

The Nevada Faculty Alliance believes these changes will better implement the goals of the proponents of Question 1 while not leaving voters so confused about what would happen if the Board of Regents were removed entirely from the constitution.

Proposed, to amend SJR7 by replacement with the following conceptual language (with links to references):

WHEREAS, Article 11 of the Nevada Constitution, commonly known as the Education Article, requires the Legislature to provide for the establishment of a State University that is controlled by a Board of Regents whose duties are prescribed by law (Nev. Const. Art. 11, § 4); and

WHEREAS, The Education Article also requires the Legislature to provide for the election of the members of the Board of Regents and to define their duties by law (Nev. Const. Art. 11, § 7); and

WHEREAS, The Education Article authorizes the Board of Regents to control and manage the affairs of the State University and its funds under such regulations as may be provided by law (Nev. Const. Art. 11, §§ 7, 8); and

WHEREAS, As required by the Education Article, the Legislature has provided by law for the establishment of the State University, known as the University of Nevada, and has provided by law for the election of the members of the Board of Regents (NRS [396.020](#), [396.040](#)); and

WHEREAS, The Legislature has provided by law for the establishment of the Nevada System of Higher Education, which consists of the State University and other educational institutions, programs and operations, and for the Board of Regents to administer the System and to prescribe rules for its governance and management (NRS [396.020](#), [396.110](#), [396.230](#), [396.280](#), [396.300](#), [396.420](#), [396.440](#), [396.550](#)); and

WHEREAS, The State University has evolved under the law and under the management of the Board of Regents into the current Nevada System of Higher Education comprising two universities, a state college, four community colleges, and other divisions, well beyond the singular State University prescribed by the 1864 Constitution; and

WHEREAS, A variety of public institutions of Higher Education and research are necessary and advantageous to support the post-secondary educational attainment of Nevadans and the economic development of this State; and

WHEREAS, The original constitution named three specific departments of Agriculture, Mechanics Arts (now generally understood as Engineering), and Mining (Nev. Const. Art. 11, §§ 4, 8) in order to gain eligibility for federal land grants under the Morrill Act of 1862, but modern colleges and comprehensive universities include departments in a wide variety of academic and professional disciplines in the arts, humanities, natural and social sciences, engineering, medicine, and other fields; and

WHEREAS, Modern institutions of Higher Education encompass, without limitation, colleges, universities, medical schools, other professional schools, and research institutes that offer, without limitation, courses, degrees, and certificates of educational attainment beyond high school and career and technical training programs, and that provide for the creation of knowledge and for the dissemination and use of such knowledge for the common good and for economic development; and

WHEREAS, Joint decision-making and consultation among faculty, administrators, and governing bodies is the long-accepted practice of shared governance in institutions of Higher Education; shared governance is essential to the advancement of the educational missions of those institutions; and timely decision-making for academic institutions requires a governing body such as the Board of Regents that meets on a regular basis more often than Legislative sessions; and

WHEREAS, The election of a majority of the members of the Board of Regents ensure that they are subject to the people's check of accountability, while future Legislatures may find that appointment of some members of the Board of Regents would be advantageous to ensure that the Board of Regents includes members who are expert and knowledgeable regarding the governance and administration of institutions of Higher Education; and

WHEREAS, Academic freedom for faculty (teachers and scholars of institutions of Higher Education collectively and individually) as enshrined in the [1940 Statement of Principles on Academic Freedom and Tenure](#) jointly issued by the [American Association of University Professors](#) and by the [Association of American Colleges and Universities](#) and endorsed by more than 240 other scholarly associations, is a long-established and essential aspect of academic institutions for advancing the common good and for protecting the health of the institutions; and

WHEREAS, The Legislature has the authority and should have the responsibility to hold all entities of state government, including public institutions of Higher Education, accountable through financial audits and other oversight as provided by law; and

WHEREAS, The original constitutional provision establishing a Board of Regents prior to the meeting of the first Legislature (Nev. Const. Art. 11, § 7) is obsolete and no longer necessary, and should be amended to clarify that the Board of Regents is established by law within the executive branch of the State, removing the broader authority given to the temporary initial Board of Regents to control and manage the affairs of the University and its funds; and

now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That this resolution may be cited as the Nevada Higher Education Amendment; and be it further

RESOLVED, That Section 4 of Article 11 of the Nevada Constitution be amended to read as follows:

~~[Sec:]~~ *Sec. 4. 1.* The Legislature shall provide *by law* for the establishment of a State University, which shall embrace departments ~~for Agriculture, Mechanic Arts, and Mining to be controlled~~ *deemed appropriate for institutions of Higher Education and which shall be governed* by a Board of Regents whose duties shall be prescribed by Law.

2. The Legislature may provide by law for the establishment and governance of institutions of Higher Education in addition to the State University.

3. The academic freedom of the faculty of the State University and of the faculty of any other public institutions of Higher Education of the State or its political subdivisions shall not be infringed.

4. The Legislature may provide by law for financial auditing of the State University and any other public institutions of Higher Education established by the Legislature in this State.

And be it further,

RESOLVED, That Section 7 of Article 11 of the Nevada Constitution be amended to read as follows:

~~[Sec:]~~ *Sec. 7. [The Governor, Secretary of State, and Superintendent of Public Instruction, shall for the first four years and until their successors are elected and qualified constitute a Board of Regents to control and manage the affairs of the University and the funds of the same under such*

~~regulations as may be provided by law. But the Legislature shall at its regular session next preceding the expiration of the term of office of said Board of Regents provide for the election of a new Board of Regents and define their duties.]~~ *The Legislature shall provide by law for the establishment of the Board of Regents of the State University within the Executive Department of the State and shall define the duties of the Board. At least a majority of the members of the Board of Regents must be elected by the people.*

And be it further,

RESOLVED, That this resolution becomes effective upon passage.
