

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

**Seventy-third Session  
March 1, 2005**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara Cegavske at 2:01 p.m. on Tuesday, March 1, 2005, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Barbara Cegavske, Chair  
Senator William J. Raggio, Vice Chair  
Senator Warren B. Hardy II  
Senator Bob Beers  
Senator Dina Titus  
Senator Bernice Mathews  
Senator Valerie Wiener

**GUEST LEGISLATORS PRESENT:**

Senator Terry Care, Clark County Senatorial District No. 7

**STAFF MEMBERS PRESENT:**

Brenda J. Erdoes, Legislative Counsel  
Michael Stewart, Committee Policy Analyst  
Elisabeth Williams, Committee Secretary

**OTHERS PRESENT:**

Janine Hansen, Nevadans for Sound Government; Nevada Eagle Forum  
Lynn P. Chapman, State Vice President, Nevada Eagle Forum  
Lucille Lusk, Nevada Concerned Citizens

CHAIR CEGAVSKE:

We have Bill Draft Request (BDR) 24-527 ready for Committee introduction. It is from the Nevada Supreme Court.

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**BILL DRAFT REQUEST 24-527**: Changes period for filing of declarations, acceptances and certificates of candidacy for certain judicial offices. (Later introduced as [Senate Bill 154](#).)

SENATOR RAGGIO:

What this does is propose a different period in which judicial officers would file a declaration of candidacy. It is one we will have to discuss at length.

SENATOR RAGGIO MOVED TO INTRODUCE BDR 24-527.

SENATOR HARDY SECONDED THE MOTION.

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

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CHAIR CEGAUSKE:

We are going to pull Senate Bill (S.B.) 140 from our agenda today and reschedule it for next Tuesday.

**SENATE BILL 140**: Revises provisions governing financial disclosure statements of candidates for certain public offices and certain public officers. (BDR 23-1178)

CHAIR CEGAUSKE:

We open up the hearing on Senate Bill 129. Senator Terry Care has an amendment for this bill ([Exhibit C](#)).

**SENATE BILL 129**: Requires Legislator who is public officer or employee to take unpaid leave of absence during regular or special session of Legislature. (BDR 17-28)

SENATOR TITUS:

Last year a scandal involving a Legislator, who is no longer here, fueled a movement led by George Harris from Las Vegas to prohibit public employees from serving in the Legislature. Proponents argue there was a conflict of interest for teachers, firefighters, nurses, policemen or local government administrators serving as Legislators in Carson City and voting on policy they were responsible

for implementing. The opponents, on the other hand, argued a citizen legislature, one of the hallmarks of Nevada government, must include people from all backgrounds and walks of life. They further argued that the occupations of all Legislators were well known and the voters could hold their representatives accountable on Election Day. They concluded there was not a problem of a conflict of interest.

In the end, the anti-public employee initiative failed. It seems people like having a citizen legislature. They respect Legislators with all occupations, even when those occupations are also public service. They do not want to have their choices limited, and they did not see a problem with conflict of interest when the interest in both cases was indeed the public, such as educating the public or protecting the public. It became evident that people did not appreciate Legislators collecting pay for their other public jobs while they were in Carson City. Working two jobs is one thing, but getting paid for two jobs when you are only working one is quite another. Calling in your job long-distance, or turning up occasionally on the weekends, in their minds, did not equate to doing a full-time job. As a university professor, I have always taken a leave of absence without pay while serving in the Legislature. My benefits are discontinued and there is no time or contributions to retirement. I stay in the university health care system, but I pick up my premiums. I would like other Legislators to do the same. I could have taught night, weekend or distance education classes, but I thought the Legislature deserved my full attention. My job as a Legislator is the full-time job I chose to do.

This bill would simply say a Legislator has to take a leave of absence without pay to serve in a regular or a special session. This is easy, simple and straightforward. It is easy for local governments to administer, and it standardizes the practice for all public employees. In the past, different local governments have approached this in different ways. I am not blaming any particular Legislator. This sends a strong message, and it prevents any kind of scandal or question. It also says we do not need to have a Nevada Hatch Act, which would state public employees cannot be in the Legislature. We are a citizen Legislature where everybody can be represented.

SENATOR RAGGIO:

If this is passed, never mind the fact that some people argue there is a constitutional issue which has never been fully resolved: How will you deal with

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a Legislator who would serve, but would continue to get paid because he or she is using vacation pay? How does S.B. 129 resolve that issue?

SENATOR TITUS:

Senate Bill 129 would not allow a Legislator do that. This would be very simple: if you are not there, you do not get paid. That is the way the State law works.

SENATOR RAGGIO:

You misunderstood my question. If we pass this, Legislators could take a leave of absence, but they could still get paid because they could use vacation pay or some other kind of pay while they are here. Is that allowed or addressed in S.B. 129?

SENATOR TITUS:

Under my bill, they could not still do that. This is written in the same way the State statute is written which says you do not get two checks for two jobs from the State at the same time. For example, if you work for the State, you cannot use paid vacation time from your State job and serve in the Legislature. This bill is structured to say no check, no pay.

SENATOR RAGGIO:

Could Legislators continue to get health benefits?

SENATOR TITUS:

In the past, people would stay in the system, but would pick up the costs of the premium. That was because it was more expensive and more trouble to have a person come in and out of the health care system.

SENATOR RAGGIO:

The Legislators have to pay out of their own pockets if they want to stay on the health plan.

SENATOR BEERS:

Did we pass out of the Nevada Assembly a bill for one agency or another that was going to pay the health plan for Legislators who were on leave for Legislative duties? Did it get processed out of the Nevada Senate?

SENATOR TITUS:

I am not familiar with that.

SENATOR BEERS:

Is there also an issue about having the time served at the Legislature count as time in the Public Employees' Retirement System (PERS)?

SENATOR MATHEWS:

I had to take a leave of absence from my job in the university system for the two months I was on the city council. During those two months, I did not receive time in PERS because I did not get any pay, so there was no way to deduct anything to pay PERS. I also paid my own health insurance premiums.

SENATOR TITUS:

In the university system, most people are not in PERS; they are in the Teachers Insurance and Annuity Association - College Retirement Equities Fund (TIAA-CREF). That is a contribution made by the person and the university. When I am on a leave of absence from the university, there is no contribution made to TIAA-CREF, and I do not accrue time for my retirement. Every two years, I lose half a year of time as well as monetary compensation.

SENATOR MATHEWS:

I know every time Assemblyman Bernie Anderson served as a Legislator, he took a leave of absence without pay. Because of that, nothing went into PERS. That is why it took him so long to get to retirement. He would lose six months every time he came to the Legislature, and he had to make up that time over the years.

SENATOR TITUS:

I do not believe this is a constitutional problem because the State has been doing this forever, and the school district has done it off and on in different ways. Also, the problem of the contracts for public employees has been brought up too. I wanted this bill to go into effect upon passage and approval. If we are going to do it, we might as well do it now. However, Legislative Counsel Bureau (LCB) Director Lorne Malkiewicz told me the reason the effective date of S.B. 129 is January 1, 2006, is if there are some kind of public employee contracts in existence, this bill would affect those after the fact. It would not affect those that are already there, so it would eliminate that potential problem.

SENATOR TERRY CARE (Clark County Senatorial District No. 7):

I applaud Senator Titus for bringing this bill forward. I discussed Amendment No. 129 with her and she has no objection to it. I do not think this

amendment is contradictory to the bill at all. I am not going to rehash the discussion we had during the interim about the various opinions from the Attorney General which seemed to say some public employees could serve and others could not. For the moment, it appears that issue is settled and the voters will continue to elect candidates who are public employees to the Legislature.

One issue not addressed in Senator Titus's bill is an issue I will refer to as fairness. Over the previous sessions, we have seen Legislators from the private sector run into a situation where the employer says they will have to hire someone to fill the Legislator's job in their absence. The Legislator is let go from their job. It happens rarely, but it has been known to happen. I know a Legislator who came up to the Legislature for one term, but ran into difficulty with their employer and for this reason that Legislator did not seek election for another term. This is a matter between two private parties. There are no public funds at stake here; it is whatever you work out as a Legislator with the employer. Some of the Legislators may be employers and would be sensitive to the issue. In essence, the employer can do whatever they wish with an employee elected to the Legislature. It is not a violation of public policy to simply say, "I'm sorry, but I need someone else here. If you want to go, fine, but I will need to have someone replace you."

The purpose of the amendment is to simply dispel the notion that Legislators who are public employees receive special treatment that Legislators from the private sector do not receive. It simply says a public employer has the same discretion to deal with a public employee who is elected to the Legislature. They can grant a leave of absence and they can refuse to grant a leave of absence; that levels the playing field. I would surmise most public employers are going to let the employee serve in the Legislature without objection. This just gives the political entity the right to simply say we are not obligated to give you a leave of absence. They might give one, but they do not have to do it.

It is my understanding the city of Las Vegas has looked at this issue and has determined it would extend a leave of absence consistent with Senator Titus's bill. That raises another issue public employers are going to have to ponder. If I am a public employee elected to the Legislature and I go to my employer and am approved to be sent to Carson City for 120 days, what happens when another employee comes up and says they want a long vacation time because I was granted vacation time to work in the Legislature? What is going to be the standard to grant a leave of absence for one public employee, but not another?

I do not have an answer for this. It is something the Committee may want to ponder. I am simply saying this amendment evens out the playing field for the private employee. We do not have a statute for the private employee and we do not need it, but that is the way things work between employer and employee in the private sector. It simply says the public employer is not required to grant the leave of absence.

CHAIR CEGAUSKE:

We will now open up the meeting for public testimony.

JANINE HANSEN (Nevadans for Sound Government):

When I was the Northern Nevada Director of Nevadans for Sound Government, we had an initiative which addressed this issue. Although we do not feel this bill resolves our concerns, it certainly is a good thing to stop the actual conflict of interest which was going on with some people in the Legislature. It is a good standard to set. I want to refer to Article 3 of the *Constitution of the State of Nevada*,

The powers of the Government of the State of Nevada shall be divided into three separate departments,—the Legislative,—the Executive and the Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others, except in the cases expressly directed or permitted in this constitution.

Although we were not successful in getting the initiative on the ballot, there are a lot of concerns about these issues. The concern which Senator Titus brought up is one of them. They were concerned about whether there was a conflict of interest when people were being paid, but not doing the work. We all believe in doing an honest days work and that is what this aims for. We support it in that way, but we do not feel it resolves our concerns of conflict of interest or the influence one brings from working in one particular department of the government when they come here to the Legislature.

CHAIR CEGAUSKE:

What about the amendment?

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MS. HANSEN:

Yes, we support the amendment.

LYNN P. CHAPMAN (State Vice President, Nevada Eagle Forum):

We support S.B. 129 and the amendment. I have spent a lot of time talking to people and educating them on separation of powers. I think this is a good bill and I am glad to see it.

LUCILLE LUSK (Nevada Concerned Citizens):

We, too, would like to go on the record in support of this bill and the amendment. We appreciate it being brought forward.

CHAIR CEGAVSKE:

We are going to close the hearing on S.B. 129. We now open the hearing on S.B. 117.

**SENATE BILL 117**: Revises provisions governing report of lobbyist filed with Director of Legislative Counsel Bureau. (BDR 17-27)

SENATOR TITUS:

Senate Bill 117 simply requires lobbyists to give a written notice to Legislators on who will be included on their monthly expenditures reports. The bill says you have to give this notice five days in advance; that might be too long, two days might be enough. The point is the Legislators need some kind of advance notice if they are going to be in the report.

I am bringing this bill forward because of several circumstances in the past where Legislators have been listed in expense reports in ways that were inappropriate. Later, when the Legislators saw their names in these reports with those figures, they were surprised. If they had been notified of the expenditures, they could have corrected any errors in advance. Let me give you some examples of the type of instances I am talking about. These sessions get pretty stressful, and we have had some of our Legislators end up in the hospital. A lot of people like to send you flowers while you are in the hospital. This is an expenditure someone has made on a Legislator's behalf that gets reported. The Legislator did not voluntarily participate in that or ask for the flowers. Nine times out of ten, the Legislator left the flowers for someone else in the hospital, sent them to a nursing home or brought them to the office for everyone to enjoy. Yet, when the report comes out, the Legislator sees their



name listed with a contribution for \$50 for some flowers. If you had known that was coming in advance, the Legislator might have been able to clear up the situation.

A second example is, sometimes lobbyists have, intentionally or not, listed Legislators on their reports as being at certain events when the Legislators were not there. Sometimes the lobbyists list Legislators who just happen to stop by a table where they are having dinner. The Legislator just exchanges pleasantries, but does not have dinner or a drink. The fact that the lobbyists have been talking to all these Legislators might impress the clients of the lobbyist, but they should not list the Legislator, who did not participate in the dinner, on the form. If the Legislator had known about that in advance, they might have been able to correct it.

A third example is, many lobbyists will simply take the whole bill for the evening and divide it by the number of people at the table. If it is a \$200 bill and 5 people were there, everybody gets listed in the report for \$40. Well, suppose one of the Legislators had a glass of water and a salad, but another Legislator had a four-course meal and some fine wine. That would not be an accurate reflection of what the Legislators participated in. It is not an accurate way to do reporting. Again, if the Legislators had known about it in advance, they might have been able to correct it before it gets listed, printed, put in the newspaper and sent out there.

Some of the lobbyists in the building have been grumbling about S.B. 117. They do not like it, and they say we should not have to baby-sit Legislators, but it really is not too much to ask to have the lobbyists give the Legislators a copy of their report the day before they file it so the Legislators can look over it to see if there are some things which do not jive with their own records or recollection.

SENATOR HARDY:

Would the lobbyists just provide a copy of the report they submit with the LCB to every Legislator? Are there any additional reporting requirements or forms?

SENATOR TITUS:

The lobbyists could just provide that copy. There are no additional forms.

SENATOR BEERS:

What is the time frame between when the lobbyists have to report their expenditures on Legislators and the LCB publishing of the book? The LCB compiles all these reports from the lobbyists. We could insert a delay between the time the lobbyists report to when the LCB publishes the book which would allow the Legislators the chance to review the book. It would save everyone extra paperwork.

SENATOR TITUS:

That would put the responsibility on the Legislator, and the Legislators can go and review the reports now. It would also put some added burden on the LCB to keep the reports, hold off the printing and give access to the Legislators. Under S.B. 117, the lobbyists would just give the Legislators a copy of the same report they present to the LCB. That does not seem to be that much work.

CHAIR CEGAVSKE:

I know there is a bill coming before the Committee on behalf of the Secretary of State, Dean Heller. It deals with the issue of immediately reporting any contributions within 24 hours.

BRENDA ERDOES (Legislative Counsel):

The time line is outlined in *Nevada Revised Statute* 218.926 which says, aside from the end of the Legislative Session report, the lobbyists have to "...file with the Director between the 1st and 10th day of the month after each month that the Legislature is in session a report concerning his lobbying activities during the previous month ... ." If you wanted to change the section you could, but right now they have ten days.

SENATOR BEERS:

When does the LCB report?

MS. ERDOES:

The LCB makes the book available immediately for the public.

SENATOR TITUS:

If the Committee did not want to make the lobbyists give the Legislators a report five days in advance, the bill could just say that when the lobbyists file, they also give a copy to the Legislators.

CHAIR CEGAUSKE:

During the last several sessions, I have been asked if I want to be notified from staff if a lobbyist reports they paid for something for me. I always put zero on my form; I pay my own way. That way I can fix the problem before it is printed. This has been going on for at least three sessions. I do not know if this was something anyone else was aware of, but I did get contacted about that.

SENATOR TITUS:

If a Legislator gets reported, it is a lot easier to tell a Legislator who does zero on their form from a Legislator who does not. The LCB cannot look at it and figure out that one Legislator had chicken and the other Legislator did not. That is why I figured it would be easier to have the lobbyist give a copy to the Legislators. Some already do, some are courteous about it, but this bill would make it a practice that every lobbyist would do this. It would eliminate some of these problems which occurred last Session, and we had more problems last Session than I have ever seen since I have been in the Legislature.

CHAIR CEGAUSKE:

We now open for public comment.

JANINE HANSEN (Nevada Eagle Forum):

I have been a volunteer citizen lobbyist here since 1971. I can understand the concerns Legislators have. I do not ever spend any money on any Legislators, so S.B. 117 does not affect me. I am not speaking in terms of any self-interest. I just wonder how endless the reporting requirements are going to be. There is no end to the paperwork. I wonder if any of these laws we have passed improved the honesty of those participating in this process. I do not believe they do. Legislators and lobbyists are not more honest because of this. You either have integrity or you do not.

I have a little discomfort with endless reporting, not only on this bill, but on a lot of other issues. I understand you want to make sure the reports are accurate and that people have not misrepresented what you are doing. I would certainly want the opportunity to review some of the things that may have an impact on me. My only concern is it seems all of these reports, requirements and regulations have not improved the process one bit. Nothing is better, and nothing is more honest. I wonder when we have to start relying on the basic constitutional liberties people have to participate in the process. We do not have to try at every corner to make some new report so the news media can get

ahold of it and use it against whoever they want to. It is not the average person who uses these reports; it is the media who exploits these reports against honest Legislators or even lobbyists. This bill provides them with an opportunity for abuse, which is not necessary. This bill does not improve the system.

Ms. CHAPMAN:

Has any one of you received any money from me? Well, please expect the same in the future. I do not give anyone anything and I do not get anything; that is a good way of handling it. I am not necessarily in favor of this bill because it would be one more thing for lobbyists and Legislators to do.

CHAIR CEGAVSKE:

I close the hearing on S.B. 117. Since there is no further business, I adjourn this meeting at 2:35 p.m.

RESPECTFULLY SUBMITTED:

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Elisabeth Williams,  
Committee Secretary

APPROVED BY:

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Senator Barbara Cegavske, Chair

DATE: \_\_\_\_\_