

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

**Seventy-third Session
March 8, 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 8, 2005, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 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 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:

Dr. Craig Walton, Emeritus Professor of Ethics & Policy Studies, University of Nevada, Las Vegas
Stacy M. Jennings, Executive Director, Commission on Ethics
John L. Wagner, Burke Consortium of Carson City
Janine Hansen, Independent American Party
Renee Parker, Chief Deputy Secretary of State, Office of the Secretary of State

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Lynn P. Chapman, State Vice President, Nevada Eagle Forum
Mark Gibbons, Associate Justice, Nevada Supreme Court
James W. Hulse, Common Cause/Nevada

CHAIR CEGAVSKE:

Senator Michael A. Schneider had to leave and asked that Senate Bill (S.B.) 125 be pulled. We will reschedule it for March 15.

SENATE BILL 125: Increases period of residency required to qualify as candidate for public office. (BDR 24-153)

CHAIR CEGAVSKE:

Now we will open the hearing on Senate Bill 140.

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

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

The Committee should have the proposed amendment to S.B. 140 ([Exhibit C](#)). In a few weeks, the press is going to report on the reports filed by various lobbyists about which Legislators were given the most free "Big Bite Burgers" during the course of the Session. There will be rankings in the paper about how more money was spent on this Legislature than any other in the past. The press always seems to be fascinated by that sort of thing because it happens every Legislative Session. I understand the press's interest in that; however, it is my experience the \$5,000 check from Big Bite Burger does not garner the headlines to the extent that the burgers themselves garner during the Legislative Session. Certainly, what never gets reported is the flight on the Big Burger jet or the paid round of golf. I am not suggesting there is anything nefarious about that at all.

The reason those other items do not get reported is because there is no mechanism that requires disclosure of the items I have listed in [Exhibit C](#). The bill is intended to provide a sweeping realm of disclosure so the public gets a more complete picture of the types of items that oftentimes, for whatever reason, go to the various elected officials. I am not suggesting there is anything nefarious about the practice of accepting these gifts. Let me point out there is no one particular incident which compelled me to seek this legislation.

Let me give an example. It is no secret that various interest groups hold annual conventions and pick up the tab for airfare, lodging and meals. They will do that because they want to get certain groups of Legislators to participate in panel discussions or roundtables to discuss Legislative issues. That is legitimate; in my mind, there is nothing wrong with that. I just want to emphasize that since the number of big bite glasses of water paid for by a lobbyist during the Legislative Session gets reported, it is only fair the other items be reported as well, even if they take place outside of the course of a Legislative Session.

CHAIR CEGAVSKE:

Just for clarification, in the 1999 Session, a bill was passed which said if all Legislators were invited to something, there is to be no disclosure. Are you redefining that?

SENATOR CARE:

No, I am not intending to. That was former Assemblywoman Gene Segerblom's Assembly Bill from 1999. During a Legislative Session, a lobbyist has to report the names of the Legislators who show up at a function in which all the Legislators are invited to. The lobbyists then divide the costs of the function by the number of those who attend or those invited. That number then gets reported.

CHAIR CEGAVSKE:

No, it is not reported. They do not have to itemize that.

SENATOR CARE:

Right, it is not reported any longer.

CHAIR CEGAVSKE:

Does the language in this bill apply for the entire period of time a Legislator is elected, or does it just apply during the Session?

SENATOR CARE:

This would be for the entire time a Legislator is elected, not just the months spent at the Legislature. The bill is not cut along party lines; you either believe in more disclosure or you do not. Let me use the Legislature as an example, even though the bill would also apply to public officials and candidates. We are elected to four-year terms in the Senate. We only meet every other year for 120 days, but we hold the trust of the office for the entirety of the 4 years.

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Just because we are not in Session does not mean we should not disclose anything. It is a public trust, and the public is entitled to know what any publicly elected official has received.

CHAIR CEGAUSKE:

Will there be different reporting mechanisms set up? Right now, is the reporting just done 30 days before the Session, during the Session and the 30 days after?

SENATOR CARE:

This goes to the annual financial disclosure, not the Period 1, Period 2, Period 3 voluntary disclosures. These items would be listed on that annual financial disclosure.

Senate Bill 140 would not impact the existing statutes for honoraria, and it is not intended to. It is not intended to impact statutes pertaining to gifts. Again, this bill is simply to provide for additional disclosure. In this era of heightened ethics, this is in the best interests of anyone who holds public office or contemplates running for public office. It really is that simple.

SENATOR HARDY:

I am interested in the definition of lobbyist. Is it too far-reaching? I do understand what you intend, someone "who communicates directly with a candidate or public officer on behalf of someone other than himself" Would you be open to a tighter definition of lobbyist? I have gotten a couple of e-mails from people who have been confused about whether or not this bill would make them a lobbyist.

SENATOR CARE:

I would be open to a workable amendment. I would like to point out that for this bill to work, we needed to come up with a definition of a lobbyist that is different than what we mean when we say registered lobbyist during the Session. We probably all know what a lobbyist is. The fundamental question is, would you be offered this round of golf, or whatever it is, if you were not a member of the Legislature or whatever you happen to belong to? I would be glad to entertain any changes.

DR. CRAIG WALTON (Emeritus Professor of Ethics & Policy Studies, University of Nevada, Las Vegas):

I have been working with people from northern and southern Nevada to develop the Nevada Center for Public Ethics. The secretary is handing you something I took off the Internet from The Center for Public Integrity Web site ([Exhibit D](#)). The Center for Public Integrity conducted a survey of lobby disclosure laws and compared them in all the 50 states. The Web site lists 48 criteria for the disclosure of expenses. [Exhibit D](#) is the list of the 20 or 25 types of disclosures Nevada has not yet addressed. Nevada has addressed other types of disclosures, but nonetheless, Nevada ranks 39th in the United States in a comparison on providing disclosure. [Exhibit D](#) will give you some idea of the areas we have not yet addressed in this State.

Senator Care's bill goes in the direction we need to be moving. The Clark County Ethics Task Force, which I served on, was asking for a limit of zero dollars. The statutory amount is \$200; if the aggregate of gifts is \$200 or more, you have to do the reporting. There was a quarrel in the Clark County Ethics Task Force about why it should not just be \$0, but we compromised and allowed \$50 for an appointed member of the Clark County government and \$200 for elected Clark County government officials. There are already some exceptions being carved out, and that, by itself, raises some questions. You all know *Nevada Revised Statute* (NRS) 281.481 which says:

A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

That is where it ought to be.

We have already ruled out the kind of gift which would be seen by a reasonable person to be skewing or intending to skew one's judgment. Those are already not to be accepted, no matter what they are worth. Senate Bill 140 is saying the other kinds of gifts, which could be perfectly sensible, would need to be declared and made public. For example, a Legislator gets an invitation to take part in a conference on the kind of legislation a Legislator specializes in, but the airfare, meals or lodging are paid for. The Legislator can go ahead and accept that, but would have to declare it and make it public. The authority by which

you accepted the invitation and the authority by which you were valued as a participant is the one given to you by the people through the election process. It is not from your genetics or divine right, it is a people's gift.

On that ground alone, this should be a straightforward improvement which is not really spelled out enough. The disclosure section covered in Senate Bill 140 is attempting to provide the detail we have not had before. We had a case of some rather expensive athletic jackets being given out by the Running Rebels at the University of Nevada, Las Vegas, to people they hoped to befriend. These jackets were \$200 items and they were not being disclosed, even though these people who received the jackets were county commissioners. We felt we had to deal with that. By putting in travel, vacations, resorts and the other examples provided in the proposed amendment Senator Care mentioned, [Exhibit C](#), we open it up. I would very strongly recommend we do that.

SENATOR RAGGIO:

I had a comment about the last thing you said about the jackets. At the University of Nevada, Reno, we have one of the best basketball teams we have ever had. We are very proud of this team. They have an organized group of people, a booster group, who support the basketball program. They are called the Starting Five and each year we give them \$500 from our personal funds. They did give us a jacket. Is that something I would be required to list because it is a university and it is a basketball sponsorship and I paid \$500 for it?

MR. WALTON:

It does not sound like that would fall under this definition, at all.

SENATOR RAGGIO:

I am concerned about getting good people to run for office. Let me tell you, it is not easy. I do not know whether any of you who are going to testify on this have considered running for office, but you might. There are so many disincentives today—disclosures, reports, et cetera. I am being the devil's advocate here, you are saying every time someone has lunch, they have to figure out the value of the lunch whether it is \$1.50, \$3.75 or \$20, keep a running record of it and who they had it with. It might sound good, but I will tell you, very frankly, I think it is a little bit ridiculous to do that. I am not finding fault with your statements, but there is a limit to what is reasonable, what is necessary and what needs to be disclosed.

MR. WALTON:

Are you required to keep receipts for reimbursement in any way?

SENATOR RAGGIO:

No.

MR. WALTON:

I have been a faculty member for 32 years, and if I do not have a receipt for every single thing, I cannot turn it in, even if it is on purely university business.

SENATOR RAGGIO:

Yes, but I am not paid by the university. Let me give you another example. Several people in my law firm are lobbyists. In the course of a year, I go to lunch with all of them. The way I read S.B. 140, these lobbyists are not related to me, so I would have to keep a record of every time they bought lunch. We may even talk about politics or legislative issues. We have to be practical and realistic. Sometimes, we can go a little too far. I want to make sure good people are interested in seeking public office. I firmly believe we should do something about incidents where there is any appearance which can be deemed to be inappropriate, but sometimes, we overreact and do a disservice to the process.

I may be the only one who is willing to say anything on this, but we have to be practical and reasonable. I do not care what other states have done. I have been around the Legislature for 30 years, and I am very mindful of the sanctity of this process. This is a part-time Legislature; this is not Congress, California, Ohio or Michigan. Those places have full-time Legislators who are paid full time for their services; they do not have outside interests. We are a citizen's Legislature and we do normally have contacts in between Sessions. I need someone to address those concerns.

MR. WALTON:

I have been faculty for 32 years, and I remember the famous situation when former Governor Robert List double-dipped on travel. When he was caught, he said everyone was doing it. I wrote a letter to the *Reno Gazette-Journal* that morning saying I was not doing it, and I was one of the everybodies he was talking about. The reference is because it might be a bit more onerous to have to keep receipts, and I can see how that can be a bit more trouble. It might be sensible to define meals in some way, under a certain amount per time. We could say an aggregate that is modest would not be affected. That way, the

sensible, everyday little things are not under scrutiny. I do not know; that would involve improving the language.

We want to have the people who are currently cynical change their minds. Your work will be much more facilitated if people are not bitter and cynical about everyone in the government. We could take a sensible amount of disclosure improvement that shows good faith on our part. We want to open this thing up a bit more. We are not really acting as private parties in these cases because you are public people. Some areas of your privacy belong to you and cannot be violated; we have to fight for that. There are also some areas where public officials' privacy is not the same as normal citizens'. There may be a bit more of a burden, but I hope to keep the burden to disclose better reasonably small.

SENATOR RAGGIO:

We have a law in place now, during the Session, which states lobbyists have to file a list of all their expenditures on behalf of Legislators. Because of this law, the Legislators are going to ridiculous efforts not to accept anything. We do not go to functions we should go to because groups sponsor them and because of that, they are going to have to indicate how much was spent on a Legislator's dinner. We have lunches here at the Legislative Building many Legislators do not go to because the cost of the lunch must be reported on a lobbyist's disclosure.

People know I am close to the buck. I go out with lobbyists, and more times than not, I pick up the tab for the lunch because I do not want to be on these lists. I do not think my constituents really care that much about this. I do not get the degree of cynicism you say is out there. I read about them in the letters to the editor, but I also talk to people in my district. For a part-time Legislature, I really do not find this level of unacceptability or cynicism about the process. I may be completely out of what is going on. I am not arguing with you, I just think we should address this. I do not want to pass something because it feels good, if the end result is that we really do a disservice to the process. I may be the only one who feels this way.

SENATOR BEERS:

This is a little bit of a digression, but it concerns the general topic we are addressing. Maybe I am a little jaded by my own trip before the Commission on Ethics, six years ago. I was fined \$5,000 for a political flyer the Commission ruled was true but negative; it was eventually reversed. We have implemented these ethics laws and, I believe, the intent at the time was to decrease the

citizen cynicism you referenced. It strikes me, as I have watched the last ten years of news and political scandals unfold, that this set of laws has increased citizen cynicism. You cannot really legislate what goes on in the dark recesses of someone's mind. Those who are honest and ethical act honestly and ethically. Those who are not ethical do not act honestly and ethically. I wonder if life was less cynical and government was cleaner when we relied on the press and the Federal Bureau of Investigation (FBI).

MR. WALTON:

Jon Ralston holds the same view you do, and we have fought about it ever since I met him. People who are sleazy in character are not going to be dissuaded by ethics laws or by friends trying to dissuade them. People who are substantially upright and of good judgment are not going to need to be threatened or have anything held over their heads. However, there is a large area in between those two extremes. There are a lot of features in NRS 281 which are written in legalese. On the Clark County Ethics Task Force, I asked Dean Morgan if we could work together to write a translation to the legalese and try to get it into people's hands so they can read and understand it.

I have been asked by many groups in Nevada to talk to them about ethics and government. There are a lot of things in these statutes which are not clear. It is not that public officers and employees are bad people, but there are things in there that are pretty strange. They are sophisticated. With a citizen Legislature, on the one hand you are a human being with a family and work, and on the other hand you are a public servant. The roles go back and forth; you are carrying two identities, your private person and your public person. We expect people to be both of those and with good balance; it is tough. We can do a lot, not to get the evil guy to stop being evil, but to make it less likely nobody is going to see him and more likely the people around him will be talking openly about what the standards and our expectations are and that those standards are sensible and fair. Then, when he talks to his buddies, his family or fellow schemers about some sleazy plot, he is going to hear some feedback saying it is not as clever as it looks. That we can do; we can change the moral culture of the workplace, the public or private sector. We want the conscience and best judgment of everyone who works in the city, county or state to be online when they are at work and to not be intimidated or suffer retribution. It is going to take some work to get people to speak up and say it. Disclosure is part of that, a small part, but it is a part.

SENATOR BEERS:

It has been 15 or 20 years now, we have had these laws in the books and the process in place. Far more false allegations have been leveled than sustained allegations leveled. I would contend the leveling and processing of all those false allegations increases cynicism. At the end of that long 15- or 20-year stretch, the entire ethics law process was completely blind to the goings-on in the Clark County Commission 4 years ago. It was not until the FBI and the press came along that we were able to root it out.

MR. WALTON:

That is true. I do not think the Ethics Commission is able to carry the full load. Eighty-five percent or ninety percent of the load belongs on us, the people of Nevada. We have these duties, and we have to see to our own moral culture—what is it, how do we respond, what do we accept, what do we not accept from people around us. If that is clear and clean, then the law enforcement job will not be as hard. Four years ago, a change was made in the Commission on Ethics to have a screening. In other words, if a frivolous suit is brought now, it is going to get screened out. That was a hard change. This year in the new budget, the 2005 biennium budget, it is the first time there is a line item for a full-time investigator for the Ethics Commission. Right now, they have less than one half-time investigator, and it is just ad hoc monies they have scratched together. How are you going to screen off the frivolous complaints if there is nobody to do the work?

SENATOR BEERS:

I would not call the State and nation's law enforcement communities "nobody." You just said there was no one to do the work. Are you suggesting the one proposed investigator at the Ethics Commission is going to be able to replace the FBI?

MR. WALTON:

I do not think we want to turn Nevada over to the FBI.

SENATOR BEERS:

It is a little late for that.

MR. WALTON:

In Clark County, it may be.

CHAIR CEGAVSKE:

You want the elected official to do the reporting. Have you done anything in S.B. 140 about the lobbyists? Would you look at what the lobbyists would be reporting and then at what the Legislators report? What happens if one reports and the other does not, or both do not? Who is going to follow everyone around to find out whether they have eaten and who has paid for it? Who is going to enforce this?

MR. WALTON:

The part of the statute governing what the lobbyists have to report is a separate statute. It is not in NRS 281, which is the chapter on ethics and government.

CHAIR CEGAVSKE:

Do the changes you are proposing change anything about the lobbyists reporting at all?

BRENDA J. ERDOES (Legislative Counsel):

Let me clarify the question. Are you talking about the proposed amendment or the bill as a whole?

CHAIR CEGAVSKE:

I am talking about the bill as a whole. Is there anything which would change anything for lobbyists? Obviously, there is increased reporting for the Legislators. Does it or should it do anything to the lobbyist chapter?

MS. ERDOES:

No. These provisions apply to the financial disclosure form, and there is no change in the lobbyist requirements. All of the requirements for legislative lobbyists who operate here are in NRS 218.900 through 218.944 inclusive. That statute would not be affected by S.B. 140.

CHAIR CEGAVSKE:

Should they be?

MS. ERDOES:

That is possible.

CHAIR CEGAVSKE:

Is there something in NRS 218.900 through 218.944 inclusive which needs to be changed to go along with these new requests and changes?

MS. ERDOES:

The best way to answer your question would be to say that changing NRS 218.900 through 218.944 inclusive would not be necessary in order to make this bill work. It is a policy decision as to whether you would want to change that NRS chapter.

MR. WALTON:

It would be very valuable if the sections were perfectly parallel.

CHAIR CEGAVSKE:

Was that a recommendation you and Senator Care had?

MR. WALTON:

It is a problem which has not come up.

STACY M. JENNINGS (Executive Director, Commission on Ethics):

I spoke with Senator Care last week about the provisions to S.B. 140 and the proposed amendment. There is a lot of confusion among public officers, public employees and people who would be in the position to provide the types of things which are mentioned in the bill. I get two or three telephone calls a month from companies or their lawyers regarding the types of things which are allowed as far as gifts under NRS. Under NRS 281.571, a Legislator has to report gifts in excess of an aggregate value of \$200 per year from any single person, but the statute never specifically states what a gift is. When I get those questions, I refer them to two other statutes. One is NRS 281.553 which talks about honorariums and says public officers or employees cannot take an honorarium for their appearance as public officers. However, that statute also says an honorarium does not include any "actual and necessary costs incurred by the public officer or public employee, his spouse or his aid for transportation and for lodging and meals while the public officer or public employee is away from his residence." However, sometimes a public officer is not getting invited to make a speech, they are merely getting invited to something. The statute does not fit all the situations.

I also refer people to NRS 281.481 which states:

A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

One thing I always advise people is, lodging or tickets would have a value if the people had to purchase them themselves. As public officers or employees, they have the final decision as to whether they would accept that gift, ticket, plane travel or whatever it is. If someone finds out about it and files a complaint against them, that would be the only recourse under statute. Obviously, whether you want to expand the requirements for reporting is a policy decision. It flows from the intent of financial disclosure, which is the public's right to know where those types of things are coming from.

JOHN L. WAGNER (Burke Consortium of Carson City):

I appreciate what Senator Raggio had to say about gifts. It made a lot of sense. I do not think anyone in the Nevada Senate or Nevada Assembly is going to sell out for a couple of hamburgers. I would be very concerned if I saw one of my colleagues give a Legislator the keys to a brand new Hummer; that would be different. This bill is overkill, and it is a bad bill.

Also, I do not like the definition of a lobbyist, "a person who communicates directly with a candidate." I am a lobbyist because I have the badge and you expect me to do that. The definition of a lobbyist to me is very ambiguous. For example, what happens if I meet one of the Legislators in the store? If I said someone wants to do something about this, under S.B. 140, that would make me a lobbyist at that particular time. The definition is too broad.

SENATOR MATHEWS:

I work in a public place outside of the Legislature. People come into a store and say, "I need to lobby you about something." They may not be a paid lobbyist at the Legislature, but they proceed to tell me what they want. Would those people be considered lobbyists? If they said, "Here, take a part of this candy bar," do I have to report that?

MR. WAGNER:

I would hope not. I just do not believe the Legislators are so immoral you would sell out your principles.

CHAIR CEGAUSKE:

Staff has indicated that in NRS chapter 218, it is up to the lobbyist. They would have to report the half of the candy bar during Session and in the 30 days before and after the Session. The candy bar would also have to cost over \$2.

SENATOR MATHEWS:

Under S.B. 140, it says, "anything of value."

CHAIR CEGAUSKE:

Was it anything? Senator Titus, is that correct? Do you want it zeroed out? "Anything of value" would mean the \$1 candy bar. You could leave it at \$1.

JANINE HANSEN (Independent American Party):

For many years since these issues first came up, I have had serious concerns about them. I appreciated the comments from Senator Raggio and Senator Beers. I have not seen that any of these laws have made a single candidate or public officer more honest. It has made it burdensome for them to volunteer to serve the public. The more regulations and laws we have decreases the number of good people who are willing to subject themselves to the rigmarole that goes on. Senate Bill 140 requires the people in public office and every candidate for any office in the State to report these things. It would include someone working for a water district, someone running for the state school board and the Board of Regents. It would not matter who it is. Now, a whole new set of reporting requirements are placed on us and making it more difficult for the people and their parties.

It is very difficult to recruit candidates. The Independent American Party had 30 candidates in the last election. In many of the races the Independent American Party participated in, we were the only other party in the race; we ran against either a Democrat or a Republican. Why are there not more Democrats and Republicans filling those slots? The answer is the Democrats and Republicans are having a hard time recruiting candidates because it is more and more difficult. People are unwilling to subject themselves to this kind of scrutiny because most people are honest, and if they are not honest, they are not going to obey the rules anyway. These laws do not do any good.

I have a concern about the phrase, "anything of value." If I give a Legislator a copy of the *Constitution of the United States of America*, which has one of the greatest values, it would have to be reported under S.B. 140. My greatest concern is the definition of a lobbyist. The bill says a lobbyist means "a person who communicates directly with a candidate." My interpretation of S.B. 140, and of course I could certainly be wrong, is that if a person, who has family or knows someone else, talks to a candidate, then they are a lobbyist. A candidate goes door to door and talks to a lot of people, goes to candidate nights and talks to people and talks to people in stores.

The bill mentions, "a person who communicates directly with a candidate or public officer on behalf of someone other than himself." When I do my voter guide, some of the people who help me call candidates on the phone and ask them if they could please respond to our questionnaire. Under S.B. 140, they would be considered lobbyists. There is not anyone on this earth who is not connected to someone else in some way. There is one exclusion; it is for the candidate's family. So, every citizen, in this definition, could be considered a lobbyist. What if a citizen has a family or an organization they belong to, such as church?

During the last campaign season, I went to a candidates' night at a church. The pastor there asked the candidates questions. Because he asked candidates questions, I assume that, under this bill, he is a lobbyist. I went to other candidates' nights for homeowners associations. I guess, under this bill, all of those people are now lobbyists. What kind of requirements does that place on them? Are they now required to report everything they do? I have a family, even if I did not represent anyone else. When I speak to a candidate, I might just be representing the concerns of my own immediate family, but I would still be representing someone else that, under this definition, is a special-interest group. The bill defines a special-interest group as, "a group of persons," whether or not formally organized, "that acts in concert to influence" a decision. That can be a definition of a family or any organization or any non-organization. What happens when a candidate walks by and a group of neighbors who are outside decide to talk to the candidate about an issue? This definition is absolutely incredible. It turns every citizen who has anything to say to a candidate into a special-interest group and a lobbyist.

Freedom is a little scary, sometimes, because people can do what they want. Free speech is a scary thing, too. This is just one more bill, not intentionally so,

which violates the basic tenets of free speech. The Supreme Court of the United States has said, in *Thomas v. Collins*, 323 U.S. 516 (1945), the very purpose of the First Amendment of the U.S. Constitution is to foreclose public authority from assuming the guardianship over the public mind. In this field, every person must be his own watchman for truth because the forefathers did not trust any government, including the Ethics Commission, to separate truth from falsity for us.

In *Brown v. Hartlage*, 456 U.S. 45 (1982), the U.S. Supreme Court said the people in our democracy are entrusted with the responsibility for judging and evaluating the merits of conflicting arguments. The states' fear that voters might make an ill-advised choice does not provide the states with the compelling justification for limiting speech. If you will notice, the First Amendment to the U.S. Constitution says, "Congress shall make no law ... abridging the freedom of speech." In our own *Constitution of the State of Nevada*, Article 1, section 9 states, "Every citizen may freely speak ...," they do not have to worry about whether they are a lobbyist or not, "... write and publish his sentiments on all subjects being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press." This law abridges the freedom of speech. It makes every citizen, lobbyist and all friends special interests. The more laws we pass, the fewer people are willing to participate in the process because it becomes more onerous.

There are some risks to being free, and one of those is freedom of speech. The Supreme Court has said the best remedy for freedom of speech is more freedom of speech. Instead of having more rules, we should have fewer rules and more opportunity for the public, the press and for organizations to get together to ask questions and ferret out the truth. I am very much opposed to more regulations and laws which interfere with our constitutional right, which says no law, and I take the founders at their word, should interfere with this. Unfortunately, the intentions of this may be good, but the fallout of it makes us all lobbyists and special-interest groups.

SENATOR RAGGIO:

You mentioned an incident where you went to a church and they had a candidates' night. Did you have coffee and cake there?

MS. HANSEN:

I would have if I drank coffee, but I did eat the cookies.

SENATOR RAGGIO:

I am not making light of this, but under the original bill or the amendment, you would be required to report the value of those things.

CHAIR CEGAVSKE:

Ms. Jennings, this brings up an issue. How do you assess the value of a particular item? Do you have to make a rough estimate?

MS. JENNINGS:

I do not know how you would possibly go about that in some cases. If it were something like a plane ticket, you could obviously look on the Internet to find out how much a plane ticket costs. When it comes down to something like a meal, it is a lot more difficult, especially if it something like a large function where everything is hosted, unless they can break it down by person. A ticket or a hotel room would be easier than something like a meal.

CHAIR CEGAVSKE:

The bill passed in 1999 said if all elected officials are invited to an event, there is no reporting. Am I correct when I say if we were all at a function, there would be no reporting by us or the lobbyists?

MICHAEL STEWART (Committee Policy Analyst):

Nevada Revised Statute 218 covers lobbyist disclosure and reporting. As Senator Care mentioned, in 1999, Assemblywoman Segerblom's bill clarified the fact that if a Legislator goes to a large function, the lobbyists are not required to itemize every single Legislator.

CHAIR CEGAVSKE:

Do they have to report that all 63 members of the Legislature were invited? I do not think they do.

MR. STEWART:

I think it is in total, but we would have to look at it.

CHAIR CEGAVSKE:

The question is how would it be estimated? Does it say in NRS 218 that the lobbyists do not currently have to say they have a reception and we are all invited?

SENATOR BEERS:

If they have invited all Legislators, nobody has to report it. However, under S.B. 140, the Legislators would still have to report it.

SENATOR TITUS:

Ms. Hansen, the Independent American Party does not fill out those reports anyway. Is it not correct that you refuse to send those in out of protest? I am not objecting, I just wanted the record to show that you do not follow these laws whether they are on the books or not.

MS. HANSEN:

It is a good protest. Senator Titus, you are not exactly right, and maybe I can set the record straight. Many of our candidates have chosen, out of coercion and fear, to follow what we feel is an unconstitutional law. Some of our candidates have taken the risk to pursue this in the courts and other places while facing huge fines up to \$70,000, even though they spent no campaign contributions.

SENATOR TITUS:

The Ethics Commission never enforced those, have they?

MS. HANSEN:

Do not kid yourself. Right now, my son, who spent no money on his campaign, is under the jurisdiction of the Attorney General's Office which continues to file motions against him. They are trying to force him into giving up his rights to protect himself. Many of our candidates have already gotten sanctions and judgments against them. They have put themselves in jeopardy because of their constitutional beliefs. Some of our candidates do not choose to do that.

SENATOR TITUS:

I did not think anything had happened to anyone who had not paid a fine because that is some of the frustration of people who do turn in the reports. Some of the groups on the initiative process never filed those reports and

nothing has really happened to them. Maybe there has been a judgment, but they have not been thrown in jail or had their property taken.

MS. HANSEN:

Nancy Brodie, who ran for Washoe County Assessor in the last election, spent no money on her campaign. She is now paying \$50 a month to the State because of her constitutional objection to these laws. Others are still in the process of trying to resolve these problems. My brother has tens of thousands of dollars in judgments against his family. My son had to hire an attorney and spend many hours away from his family trying to work this out in order to pursue this effort and the means of securing his liberty. Some chose to file, some are fighting it and some have already given up. This will be a huge discouragement for anyone in the Independent American Party from participating in the future.

SENATOR TITUS:

I appreciate that. I understand the First Amendment, but those are not absolute freedoms. Certain kinds of speech have been ruled to be beyond the First Amendment and have been allowed to stand in court cases over the years. Aside from all that, I realize there are a lot of problems with this language. It is too broad; it will not work the way it was written. In defense of Senator Care, his frustration, and I share it, is there is a lot of detail about reporting every little meal a Legislator has during the Session. Then, the minute the Session is over, the Legislator walks away and there is no accountability. There are people who drive loaner cars from car dealers, go on junkets, hunting trips and wine-tasting trips in Napa. All of that is outside of reporting. If you would argue that it is ridiculous, then the reporting during the Session is ridiculous. That is his frustration; it is sort of an artificial focus on the Session when all of that stuff can go on outside the Session. In his defense, Senator Care is not talking about someone giving another person a candy bar. He really sees a problem he would like to solve. It is an ethical issue which deserves to be discussed. Maybe this is not the way to do it, or maybe it needs some different language.

MS. HANSEN:

I am sure his concerns were real. A lot of the problem here is the language of S.B. 140. Senator Care is very sincere; I do not want to indicate that I do not feel that. I want to close with one more thing. In *Meyer v. Grant*, 486 U.S. 414 (1988), the Supreme Court said, the speech at issue is at the core of our electoral process and of the First Amendment freedoms, an area of public policy

where protection of robust discussion is at its zenith. Our political freedom of speech is at the zenith of the right to free speech. Other kinds of speech such as obscenity may not be, in my opinion. Political free speech, according to our founders and the Supreme Court, is the most critical kind of free speech we can protect.

MS. ERDOES:

I was able to confirm with the Legislative Counsel Bureau (LCB) Director Lorne Malkiewich that he has the duty of regulating lobbyists for this Legislature. He said pursuant to the law, the lobbyist would report the total expense of the event that was held. For example, if an event is \$5,000, it would be divided by the total number of Legislators who were invited to provide a cost per person. They are not required to report who attended or how many people attended. This applies if all Legislators were invited.

SENATOR MATHEWS:

Ethics is important in all our lives, whether or not we are politicians. I was listening to Mr. Walton, who said he worked 30 years for the University System. I worked 26 years in the same system. I never turned in a receipt. If I went on a trip, I paid for my own meal, even when I worked for the University System. If I go on a trip now, I pay for my own meal. You can check with the LCB staff; they do not send me a check. When I go to the National Conference of State Legislatures, I pay.

I do not keep receipts. I am a busy woman, and I have to work outside of the Legislature. I am not going to keep every little receipt because my drawer would be overflowing. I do not want to have to keep every receipt to prove that nobody gave me anything while I was in the Senate. I do not receive anything and my report, like those of a lot of other Legislators here, says zero. It is not because I think it is wrong, but because it is, for me, not comfortable to accept anything. I do not want to lay that on anyone else. I would not support this bill, not because it is wrong, but it is wrong for me. It does not make it wrong for everybody else who accepts anything. I would not ask anyone to keep receipts and bring them out when someone questions if a lobbyist gave them something. I may be on a soapbox, but that is exactly the way I feel. I do not take anything from any of you, and I will not take anything, starting right now. Someone brought a little mirror to our office with an invitation to something. I bet the little mirror cost less than \$1. They brought it in the office, but my attachés know to send anything that is sent to my office back with a kind note. Do I

think that is wrong? No. It was less than \$1. I do not accept anything because I do not want to collect receipts, and I do not want anyone else telling me, in law, I cannot do what I do.

SENATOR RAGGIO:

I have been in the Senate for 30 years, and I have watched this process grow. The Ethics Commission was originally designed as a body a public officer could go to get an advisory opinion. It was created because there were accusations floating around. It became like the committee to design a horse, which, instead, became a camel.

On the issue of lobbyists, we have a two-volume list of lobbyists who register here for the Legislature. There are all kinds of special-interest groups, and some are represented here today. Everyone believes his cause is the best. After 30 years here, I have noticed the only people here, in this process, without a lobbyist are the people. They do not have a lobbyist. That is who we are supposed to represent. We are supposed to have input from all interests, public, private, paid and nonpaid. Some of you think you represent the people, but you really represent a special-interest part of the people.

RENEE PARKER (Chief Deputy Secretary of State, Office of the Secretary of State):

Senator Titus was correct about the non-filing of the financial disclosures. Ms. Hansen was correct in her response that we have judgments on enforcements, but they are not on financial disclosures. This discussion today is about the Nevada Financial Disclosure Statement. All the judgments we have are on the Contributions and Expenses Report (C&E) filings the candidates and elected officials are required to file. We do enforce those.

We did make a change to the law last Session to address some of the issues. Now, the maximum fine is \$100 for anybody who is not entitled to compensation for his office and has no contributions or expenses. In 2002, we had \$15,000 fines against people who had no contributions and expenses because we did not make the change until the 2003 Session. The enforcement and the ethics fines were all put in our office last Session. It was the end of the Session, and the fines are all different than the C&E fines. We have a bill this Session where we are trying to make it the same. We would try to apply the \$100 cap to those situations where you have people filing financial disclosures

who are not entitled to compensation. I just wanted to clarify there are no judgments on financial disclosures, and there has not been any enforcement.

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

Ms. Hansen said everything I wanted to bring up, too. During the last election, a candidate came to my door to talk about some issues. She needed some water, so I gave her some bottled water. Would I have to report that? Would she have to report that? We can get really ridiculous about things.

SENATOR BEERS:

That is an interesting point, I had not thought about it. In Sun City, a relatively new community where the trees are shorter than I am, in August, a glass of water is worth a million dollars.

SENATOR MATHEWS:

When you are a person of color, everybody is your brother or sister. If you do not believe that, watch me walk down the street. I am related to everyone in the black community. Everyone asks me if I know so and so because he or she is black. They just figure I am kin, so I know them. What am I supposed to do? Report all of those folks who give me stuff because they are related to me either through my church or through my community? All black folks think they are kin to me, especially since I am a Senator. They will tell you in a second, I am their relative.

CHAIR CEGAVSKE:

We will close the hearing on S.B. 140 and open the hearing on S.B. 154.

SENATE BILL 154: Changes period for filing of declarations, acceptances and certificates of candidacy for certain judicial offices. (BDR 24-527)

MARK GIBBONS (Associate Justice, Nevada Supreme Court):

I am here to testify in support of S.B. 154. I can advise the members of the Committee this bill has been endorsed by the Judicial Council of the State of Nevada. The judiciary is speaking uniformly in support of this legislation. Senate Bill 154 would affect the Nevada Supreme Court, district courts of Nevada and justice court races. This legislation would not affect municipal courts because, at least in Las Vegas, they run their elections in the spring. We would strongly urge you to support this bill.

The time period for the filing for all candidates set forward in S.B. 154 would be from the second Monday to the fourth Monday in January. That is ten working days, and is similar to the time period we currently have which occurs at the beginning of May. The time period in May we currently have only goes through a Friday. The Martin Luther King, Jr. Day holiday occurs during the proposed time set forth in S.B. 154, so, to keep the time frame the same, we requested it go through the fourth Monday.

We feel this bill is very important, as it relates to the public trust and confidence in our judicial system. We know the public overwhelmingly favors the election of judges. There are accountability issues when judges run for terms, and then, they are subject to an election when their terms are up. Again, we were looking for ways to minimize the issue of campaign contributions in judicial races. As the Committee may know, under the Nevada Code of Judicial Conduct, a candidate for judicial office or a judge can only raise money 240 days before the primary and up to 90 days after the general election. They cannot raise money at any time during their term.

What we would like to do, if the Committee sees fit, is change the filing period for judges from May to January. Then, the Supreme Court would amend the Nevada Code of Judicial Conduct to change the time period for raising funds to say it cannot commence until after the filing period closes. It would specifically prohibit any candidate who is unopposed from raising money. I might also add, statistically, most judges run every six years, so 2002 was the last general election when most of the District Court judges were running. We had 50 district court races in the year 2002. Of those 50 races, 30 were unopposed. That includes me. I was unopposed for the Nevada Supreme Court, but since I, like other candidates, did not know if I would have an opponent or not, I had to actively engage in fund-raising. Again, we would like to eliminate that as much as possible.

We also understand the Legislature is looking at possibly moving the date of the primary to earlier in the calendar year. We realize it could have some impact upon S.B. 154 and it might make this moot, to some extent. We understand we would defer to the wisdom of the Legislature on setting a time period. If the primary is going to continue in September, we would ask you to consider this for the reasons set forth.

CHAIR CEGAUSKE:

I did talk to Chief Justice Nancy Becker about the other bills which are coming forward. There is concern and consideration for changing the primary. We have talked to the clerks and the voter registrars. They have indicated there are ways we can actually save some money if we change some dates and reorganize a little bit. That is what our purpose is. We are trying to look at ways to make it more efficient for the clerks and the registrars. Right now, they have only so many days and hours to get something done. There is a good bill coming forward, so I told Chief Justice Becker we would hold this bill and look at the other bills which are coming forward to try to consolidate all the concerns.

MR. GIBBONS:

We understand that, and we would certainly concur with that.

SENATOR BEERS:

How come this is just for judicial offices?

MR. GIBBONS:

That is a philosophical issue as far as a concern that the judicial officers are a little different than other candidates. They are nonpartisan offices.

SENATOR BEERS:

Do our filing periods, currently, completely coincide?

MR. GIBBONS:

Yes. Right now, everybody files in May and that includes judicial officers. Again, it is just the way we try to minimize the influence of money and these types of races. Knowing we are going to have elections, I think the public is going to keep elections. I doubt if the law will change. We felt this was the best thing we could come up with to try to minimize the influence of political contributions on judicial races.

SENATOR MATHEWS:

Does this means you are going to continue to get contributions mostly from lawyers? That is where most of your contributions come from, is that correct? Will S.B. 154 change that?

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MR. GIBBONS:

As far as who contributes, no. It would just say, if you do not have an opponent, you cannot raise money. It is the prelude for that. That would be the next step we would take.

SENATOR MATHEWS:

Will reducing this from 33 to 26 days help you with that?

MR. GIBBONS:

Yes. Assuming the primary stayed in September and we changed the time period for our filing to January, we would preclude anyone from raising money until after filing closes.

JAMES W. HULSE (Common Cause/Nevada):

I speak also for the Progressive Leadership Alliance of Nevada (PLAN) which, about a year ago, researched and produced the study I have given you ([Exhibit E](#), original is on file at the Research Library). Common Cause/Nevada and PLAN are concerned about the amount of money going into these races. We support Justice Gibbons and others on the Supreme Court. We have interviewed five or six of the justices and a number of attorneys and are convinced they feel the system needs to be changed. What we proposed in [Exhibit E](#) is more comprehensive. It refers to a North Carolina plan which, I think, is now off the table. This exhibit contains data about the money which has been raised and contributed to candidates. Much of the money which goes to justices and judges, whether or not they have opposition, comes from people who have cases pending before the court or are likely to do so. As Justice Gibbons and most attorneys have recognized, this is not a good system. It leaves a very bad perception. In my letter which accompanies [Exhibit E](#), I have made parts of the rationale for changing the filing date in the manner that the courts have proposed. We feel this would be, as members of the court have said, a good step forward. Perhaps, it will be one of a number of reforms which might free the justices and judges from the need to raise money and also remove the perception that money counts in the administration of justice. I do have some additional arguments from Justice Rose and others, if they are needed.

CHAIR CEGAVSKE:

Were they in favor?

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MR. HULSE:
Yes.

CHAIR CEGAVSKE:
We will close the hearing on S.B. 154. Seeing there is no further business, we will now adjourn the meeting at 3:29 p.m.

RESPECTFULLY SUBMITTED:

Elisabeth Williams,
Committee Secretary

APPROVED BY:

Senator Barbara Cegavske, Chair

DATE: _____