

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON ELECTIONS, PROCEDURES, ETHICS, AND  
CONSTITUTIONAL AMENDMENTS**

**Seventy-Fourth Session  
March 6, 2007**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 3:51 p.m., on Tuesday, March 6, 2007, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Ellen Koivisto, Chair  
Assemblyman Harry Mortenson, Vice Chair  
Assemblyman Chad Christensen  
Assemblyman Ty Cobb  
Assemblyman Marcus Conklin  
Assemblywoman Heidi S. Gansert  
Assemblyman Ed Goedhart  
Assemblyman Ruben Kihuen  
Assemblywoman Marilyn Kirkpatrick  
Assemblyman Harvey J. Munford  
Assemblyman James Ohrenschall  
Assemblyman Tick Segerblom  
Assemblyman James Settlemeyer

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Committee Policy Analyst  
Terry Horgan, Committee Secretary  
Trisha Moore, Committee Assistant



**OTHERS PRESENT:**

L. Patrick Hearn, Executive Director, Nevada Commission on Ethics  
Matt Griffin, Deputy Secretary for Elections, Secretary of State, State of Nevada  
Nicole Lamboley, Chief Deputy, Secretary of State, State of Nevada  
Craig Walton, President, Nevada Center for Public Ethics  
Richard Siegel, President, American Civil Liberties Union of Nevada  
David Schumann, Vice Chairman, The Nevada Committee for Full Statehood  
Janine Hansen, representing the Independent American Party  
Lynn Chapman, representing Nevada Eagle Forum  
John Wagner, representing The Burke Consortium

**Chair Koivisto:**

[Roll taken] We have one bill on our agenda today. This is a Committee bill and some amendments have been suggested.

**Assembly Bill 142: Makes various changes concerning ethics in government.  
(BDR 23-169)**

**Assemblyman Conklin, Nevada Assembly District No. 37:**

What you have before you is a Committee introduction we shall refer to as the Nevada Executive Department Lobbying Disclosure Act. Something you will learn about the Nevada Legislature is that, to some extent, the bills we pass are broader in scope and broader in language. That may be necessary because we are only in session for 120 days every other year, so there are 20 months between sessions when the Legislature does not take action. If we pass something that is a mistake, we have no way to fix it, so part of the way we do business is to pass out our intent and allow the Executive Branch to fill in as necessary. They become the "flexible" part of our government.

Part of the problem with that picture is for the 120 days we are in session, we have full disclosure of lobbying activity, and then for the 20 months we are not in session there is no disclosure on the lobbying that takes place around public officials who have the ability to implement and draft ground rules. The public officials make public policy that everyone has to live under on a daily basis. That is where this bill comes in. It is designed to bring to fruition a complete mirror of our lobbying statutes, that currently apply exclusively to the Legislative Branch, and pass them through to the Executive Branch, because those people are drafting policy under the guise of legislative intent.

This bill requires lobbyists to participate in ethics training at the beginning of every Legislative Session; that would be once every other year. It requires monthly reporting whether or not any money is being spent, and would require that the reports include a list of issues being worked on by lobbyists. Outside the Legislative Session, the reporting requirement changes to a quarterly one, but the same type of information would still be pooled. That is key because once we are out of session we, as a legislative body, are no longer in charge of making policy. The Executive Branch takes over.

**Assemblywoman Gansert:**

Reading this bill, it looks as though lobbyists would have to take the course at the beginning of each session, but elected officials would take the course just at the beginning of their elected term?

**Assemblyman Conklin:**

I believe that is correct. There was legislation last session specifically relating to ethics training and its availability for all elected and appointed officials, so people would have an understanding of Nevada law as it stands on ethics.

**Assemblywoman Gansert:**

Last session we did not address lobbyists, we just were talking about elected officials, correct?

**Assemblyman Conklin:**

Correct.

**Assemblyman Settlemeyer:**

I see this applies to all elected or appointed officials. Many appointments are not paid positions. Do you believe having this apply to all appointed officials might discourage people from being involved in the political process?

**Assemblyman Conklin:**

I do not think so. I believe the Secretary of State's Office has an amendment that may address some of this. The idea is to get at folks who have policy making ability, particularly those who have policy making ability that affects money. The public has a right to know who is trying to influence that process, and right now it is done behind a curtain. There is absolutely no disclosure. Last session, we had a bill to require public officials who were appointed to disclose their financial statements. We pared that back because some people served on obscure boards where that kind of disclosure did not make sense. I am willing to listen if you have some thoughts about what exactly those positions are. At the Executive Branch level, where do you draw the line? If

they are going to be lobbied heavily, the public has a right to know who is behind those issues, what they are being lobbied for and, possibly, how much money is being spent to affect the outcome of a policy decision that is being made outside of this Body.

**Assemblyman Settlemeyer:**

I was Chairman of the Nevada State Conservation Commission for six years and I was never approached or lobbied once. I can speak for the current chairman and tell you that he would withdraw from that position if he were required to come from Elko to take a course. I am saying there might be some good people who could potentially be lost.

**Assemblyman Conklin:**

That may be a position that does not fall under this statute as the Committee determines where that bright line is to be drawn. As you said, there was no lobbying going on, however, it was suggested that ethics training could be online so that people could be brought up to speed on ethics statutes, expectations, et cetera. We should not expect people to come to Carson City from places like White Pine County for a class of a few hours' length. Somehow, we need to reach out to people and educate them before they get into trouble.

**Chair Koivisto:**

Did you testify before this Committee in the last session about this issue—people on those boards not having to file the financial disclosure?

**Assemblyman Settlemeyer:**

The Commission oversees 28 conservation districts, each with 5 people on their boards. Twenty of them resigned because of the paperwork requirements. The Attorney General told them they could quit, but that two years previously they had been in violation of the law. We came before this Distinguished Body to straighten out the \$5,000 fines relating to a law changed in the last four hours of the previous session and that had made them criminals. Yes, I did testify previously on an issue relevant to this.

**Chair Koivisto:**

My recollection is we changed the law so those people no longer must file that financial disclosure. This bill requires ethics training for people required to file the financial disclosure statement.

**Assemblyman Settelmeyer:**

That is true, but I question what other boards might exist, such as the Conservation Commission, that it might apply to. Board and commission members first put up with the liability of filling out the financial disclosure forms, and now we will add one more step. Will that be the straw on those people's backs? Are we going to keep good people from serving?

**Chair Koivisto:**

You make a very good point, and that may be one of the fixes we have to look at in this bill.

**Assemblywoman Kirkpatrick:**

As a former planning commissioner who did not have to file a formal disclosure, I was lobbied just as heavily as the city council on projects that came before me. I have said previously in this Committee that I tried to find an ethics class to take, because as a neighborhood mom I did not know what the parameters were. More people would be involved if they could find out where they stand and what types of things to look out for. It is the innocent mom who gets caught up in things, sometimes. In the class I eventually took it was stated that perception is everything and someone buying you a cup of coffee might believe they can buy your vote. I would not have known that if I had not taken that class. I learned lots of things so I believe ethics classes will only bring better folks to the table. People will think about their actions, and I think we will get more people involved in the process.

**Chair Koivisto:**

That is exactly the reason we want ethics training. It is for those who have questions but do not have exposure to what is going on. Right or wrong, perception is everything. That is the way our system works.

**Assemblyman Goedhart:**

How does the lobbyist reporting change?

**Assemblyman Conklin:**

Currently, the lobbyists do no reporting of the Executive Branch. The only lobbyist reporting mechanism in statute that I am aware of is the reporting that takes place during the 120 days of the legislative session. What we have tried to do in A.B. 142, starting in Sections 8 through 31, basically mirrors the lobbying statutes.

**Patrick Guinan, Committee Policy Analyst:**

It is the lobbying section of *Nevada Revised Statutes* Chapter 218.900 through Chapter 218.944.

**Assemblyman Conklin:**

That is the statute under which we, as Legislators, and the lobbying activity that takes place while we are in session, are governed. We are taking that statute and extending it to a different branch of government. The ethics training is new and not currently in statute.

**Assemblyman Goedhart:**

Should this bill get passed in some form, if a lobbyist takes someone out for a \$10 lunch in July after the legislative session, in the past was that reportable? Under this proposed law, would it be reportable?

**Assemblyman Conklin:**

This does not change the statute that affects Legislators. It affects the Executive Branch exclusively, I believe.

**Patrick Guinan:**

That is correct. However, in Section 5 of the bill, it does change the reporting requirement for lobbyists who lobby the Legislature when the Legislature is not in session. If, in fact, you were taken out to lunch by a lobbyist in July, they would have to report. It does not change your reporting requirements. They have to report quarterly when the Legislature is not in session.

**Assemblyman Conklin:**

I am not certain that is the case because the reporting requirement out of session is different than the reporting requirement during session. Out of session, you are not a policy maker. There are different thresholds out of session, is that correct?

**Patrick Guinan:**

Yes. I just wanted to make clear that the reporting requirements do change during the interim period for lobbyists, they do not change at all for legislators.

**Assemblyman Segerblom:**

If a lobbyist contributed to the Governor's defense fund, would that fall under this statute?

**Assemblyman Conklin:**

I am assuming you are referring to the defense fund spoken of in the Associated Press article yesterday? I am not certain where that falls. I do not believe it would fall under this statute because he was not Governor at the time. It might be covered under statute in campaign contributions or financial disclosures, Internal Revenue Service disclosures, or something of that nature. I do not know that it is a lobbying activity. It might be something Legal would need to ascertain.

**Assemblywoman Gansert:**

I see two components regarding that last question. It looks as though the first six or seven sections would change the recording requirements for lobbyists outside the legislative session. Then, Sections 8 through 31 refer to the Executive Branch. I see it affecting lobbyists who lobby the Legislature directly, because they have to file quarterly after a session is complete. I think the threshold is more than \$50.

**Assemblyman Segerblom:**

Was this bill discussed last session?

**Chair Koivisto:**

Parts of it.

**Assemblyman Segerblom:**

Did it get out of the Committee?

**Chair Koivisto:**

Yes, it passed out of this Committee and died on the other side.

**Assemblywoman Gansert:**

From memory, we just discussed ethics training, not lobbyist disclosure, and it did pass out of this House.

**Chair Koivisto:**

You are right, that is the part that passed.

**Assemblyman Conklin:**

If this goes forward, one thing that needs to be mentioned is that the reportings mirror each other. We all know we have reports we need to submit, and the standard for those reports should mirror reports everyone else has to turn in. There cannot be a threshold in one that is different than that same threshold in another. The statutes on ethics and lobbying should be clear to the common

person so there is little room for someone to say that they did not know they were supposed to report.

**Patrick Guinan:**

I will go through the bill in more depth for the Committee's benefit. Essentially, Sections 1 and 2 require public officials and lobbyists who are either newly elected, or newly registered as lobbyists, to attend a course on ethics and government that is taught or otherwise conducted by the Ethics Commission.

Sections 3 and 4 are clean up language. They do not change the impact of the law. Section 5, subsection (a) reads, "After each month that the Legislature is in session, a report signed under penalty of perjury concerning his lobbying activities during the previous month, whether or not any expenditures were made." That indicates that a lobbyist has to file a report each month while the Legislature is in session.

Subsection (b) is a new section reading, "After the end of each calendar quarter that the Legislature is not in session, a report signed under penalty of perjury concerning his lobbying activities during the previous quarter, whether or not any expenditures were made." That is the change to which Mr. Goedhart was referring and which requires quarterly reporting for lobbyists when the Legislature is not in session.

As Assemblywoman Gansert pointed out, in subsection 4, the requirement reads, "If expenditures made by or on behalf of a registrant during the previous month or quarter, as applicable, exceed \$50, the report must include a compilation of expenditures..." so it is not a question of what the money was spent on, it is a question of the amount.

Subsection 3 reads, "In addition to the requirements set forth in subsection 2, a report filed pursuant to paragraph (a) of subsection 1 must include a list of any legislation of which the registrant opposed or urged introduction, passage or amendment during the previous month." That is an entirely new requirement which essentially says that a lobbyist must report what the legislation is that they are working on, whether in opposition to, or trying to get something introduced or amended. That needs to be listed on their report.

The next areas of the bill are renumbering and then Section 6, subsection (a), requires that the Legislative Commission will adopt regulations to carry out these provisions, and in subsection (b) the Legislative Commission will require fees for the registration. They will be paid to the Legislative Fund to cover the cost of the course on ethics in government and those fees will be payable to the



Commission on Ethics. Subsection (c) notes that the Commission may classify lobbyists for the purposes of establishing a schedule of fees. My thinking is that would be whether you were a paid or non-paid lobbyist. There may be classifications of that nature.

Section 7 adds a new title and Sections 8 to 31 mirror the lobbying law in Chapter 218.900 through 218.944, which is essentially the same law transferred to the Executive Branch.

**L. Patrick Hearn, Executive Director, Nevada Commission on Ethics:**

The Ethics Commission has not taken a position on this bill. I had dialogue with the Commission Chair about this bill and both of us share a concern. We were asked to prepare a fiscal note on this ([Exhibit C](#)), and we were both concerned about the outcome. That can be significantly reduced through the deliberation process. In the summary of the fiscal note we are estimating approximately \$135,000 for a two-year period. Most of that has to do with costs associated with training, and a lot of that is driven by the requirement that the lobbyists be trained within 30 days of registration. I would suggest that concept be revisited and perhaps changed to 60 or 90 days.

I also provided talking points on A.B. 142 ([Exhibit D](#)). As I indicated, the fiscal assumptions are based on the bill as introduced. There are approximately 700 elected officers who file financial disclosure statements with the Secretary of State. There are approximately 175 appointed public officers who file financial disclosure statements with the Commission on Ethics. A question that came to my mind as I read through it was why is the requirement for ethics training limited only to those public officers and employees who file financial disclosures? The restrictions contained within the ethics in government laws certainly apply to significantly more public officers and employees than that.

Would the legislative lobbyists have to take a training class for each session for which they register? For instance, if they take the class in 2007 and register again in 2009, will they be required to take it then, or wait and take it every other session, or every five years, or something of that nature?

I also did not see in the bill where executive lobbyists' registrations expired. There was a provision that they must notify within 30 days after terminating their lobbying activities, but I did not see any termination. That might cause a situation where someone registers, fails to terminate, become registered in perpetuity, and are automatically sent the report forms.

**Chair Koivisto:**

We think you have the ability to set up regulations. You would be able to set up registration for one-year lobbying, or two years, or whatever worked. That is under Section 6.

The bill is limited to only those who file disclosures. It goes back to last session when we decided that filing disclosures, filing reports, and ethics training would affect those who were required to file financial disclosures. There was no specific reason.

We will hear from the Secretary of State's Office, who will actually be dealing with the reports, and they also have amendments to discuss.

**Matt Griffin, Deputy for Elections, Office of the Secretary of State, Nevada:**

I want to be certain members of the Committee have our proposed language ([Exhibit E](#)). These amendments pertain to Sections 8 through 31 of A.B. 142. I want to discuss the effects of this proposed legislation on our office from an administrative standpoint and some of the changes we request be made in order to focus the intent of the legislation a little more closely.

Beginning with Section 11, the language we propose more clearly defines what an "executive action" means so the people involved in the decision making process, and those discussing certain policy measures with decision makers, are more clearly defined. Many employees at the staff level deal with customers on an every day basis providing information or departmental interpretations of statutes. They are not necessarily decision makers, they are just reporting back as requested by a customer of the agency.

We proposed the amendment in Section 12 for the same reason. This would more closely define the people within the Executive Branch who are being lobbied and narrow the definition of an "executive officer," which this act applies to.

Section 15 deals specifically with legal counsel and those who represent clients in a legal capacity in front of various executive and administrative committees such as the Gaming Control Board and the Public Utilities Commission (PUC).

**Nicole Lamboley, Chief Deputy, Secretary of State, Nevada:**

We would add (d) in subsection 2, Section 15, which is a definition of what a lobbyist does not include. This would clearly state that a person who had been retained as legal counsel for a business or individual, and who appeared as a representative of the party in a matter related to a legal action, would not be

considered a lobbyist. The reason this is included is one could face licensing issues and have a lawyer representing their legal interests, so there would be that attorney-client privilege and various other factors like that. That is the exemption we would include.

In addressing the comment made by the Ethics Commission's Director, we would propose that there be an annual registration time for lobbyists so we would be better able to manage and administrate the program, and be able to set, as the bill provides for, time, manner, and form through regulation. This would also allow if someone, mid-year of that annual registration period, had not filed as a lobbyist, to be given two days from the time that they began such activity that qualified as lobbying to register with our Office. That is a similar provision to the Legislative Counsel Bureau's (LCB) so that would be the same, but we would set a time in a calendar year or a fiscal year.

Section 19 deals with the reporting required in the previous sections that relates to legislative activities. We recommend those be quarterly reports filed in the annual registration period, and that the fourth and final report be submitted not later than 30 days after the close of the quarter. If we went on a calendar year, the fourth quarter would conclude December 31, and this would give them additional time, 30 days into the new year, to file. It also provides an opportunity for someone to file a notice of termination and they would then no longer need to maintain their registration. It does not relieve them of their reporting requirement for that period if they terminate their registration. We also added a provision that if the person initiated new lobbying activity, they could seek reinstatement of their registration in that same annual filing period.

**Matt Griffin:**

In Section 24, subsection 2(b), we replaced "shall" with "may" require fees with the registration payable to the Secretary of State as opposed to the General Fund. The act would have an impact on our Office and this would help us implement the act in a more efficient manner, if the Committee sees fit.

We have not yet talked with the Controller about our proposed language for Section 21, but I want to note that the Attorney General, as far as I am aware, does not have the authority to audit. The Secretary of State, on the other hand, does have investigative authority in some legislation. These are proposals we are submitting to the Committee so the appropriate agency would be carrying out this section of the act. The changes are made to somewhat mirror the Secretary of State's Elections Division. The Division does not have an investigator. There is not really an investigative function within the Division that would require someone to be fulltime with that Division. In light of current

operation, these are the changes we propose so that, just as we function now, any person from the public who files a complaint with our office initiates our process to determine what has or has not been complied with. Making sure every submission to our office is correct and accurate in form and content would require a substantial amount of effort from our office. This language is consistent with the other reporting requirements we deal with now.

Our last submission deals again with Section 26, subsection 3(b). We request the Attorney General be replaced with a state administrative hearings officer. The reason for this change is that the Attorney General acts as our counsel and it may create a conflict of interest having the Attorney General sit as an appellate reviewer of a decision made by the Secretary of State.

**Assemblyman Goedhart:**

Referring to Section 19, for the first three quarters there would be 10 days at the end of each quarter to do their reporting, but for the fourth quarter they would have 30 days?

**Nicole Lamboley:**

Yes, that is correct.

**Assemblyman Goedhart:**

Then in Section 17 it says, "Such registration shall be effective through the next annual registration period." Would it be better to put the "current registration period?"

**Nicole Lamboley:**

That would be a good suggestion, yes.

**Assemblyman Goedhart:**

That almost leads someone to believe that is not only good for the current period, but also for the next one.

**Nicole Lamboley:**

Correct.

**Assemblywoman Kirkpatrick:**

In Section 24 you talk about fees. What do you believe the fees would be?

**Nicole Lamboley:**

We met with Lorne Malkiewich to talk with him about how this is administered here at the LCB (Legislative Counsel Bureau). We based our fiscal note on the

fees that LCB currently charges which are \$95 for a paid lobbyist and \$1 per entity. There are other classifications for unpaid lobbyists as well as citizen lobbyists. Just as the Legislative Commission has the authority to adopt the regulations and fees based on the recommendation of LCB staff, we would go through a similar process. The fiscal note was based on similar numbers to what is currently charged by LCB for the 120-day period but ours would be annual.

**Assemblywoman Kirkpatrick:**

This is my concern. I took an ethics class and paid \$20. I did not get anything but a piece of paper saying I took the class and someone talked to me for an hour. I think \$95 is a little high. If you take it once, it is going to be a long time before you take it again. Ninety-five dollars is great for LCB because they print the books, they give you the badges, and there is a lot that goes into it. I would want to address that differently rather than having it so vague.

**Chair Koivisto:**

I think the \$95 is for lobbyist registration and not for ethics training.

**Assemblywoman Kirkpatrick:**

She said they based their fiscal note on current fees charged, and I am saying that is a little high.

**Nicole Lamboley:**

To expand on the fiscal note, it will require additional staff for us to process. There are approximately 780 lobbyists currently registered with LCB. That would probably expand for all those who deal with state agencies. As you know, there are state agencies all around in small communities and this would cover anyone who represents there. We do have hard costs, we would have to produce the badges as well, and we would have to develop the forms and any publications acknowledging what the lobbying and reporting requirements are and then process all those forms, which requires computers and the technology to scan. Those are real costs; the fees would cover the costs of administering the program.

**Assemblyman Settelmeyer:**

In Section 23 it says, "Inspect each statement ... within 10 days after its filing." You do not have an amendment for that, so I assume you feel you could adequately and correctly verify the validity of these statements within 10 days?

**Nicole Lamboley:**

What we would do is ascertain that they did meet the filing deadline. We cannot verify. We do not have the resources or the capacity to verify that every lobbyist provided us with every expenditure or meeting or what would be required. We would just review it, not for its content, but to verify that it was filed on time and that all the required pieces are there. Section 26 explains that if someone has a complaint about the filing that was reported, they could submit to us for further investigation if there were a reason to believe that a form was misfiled.

**Assemblyman Settlemeyer:**

Do we have the financial impact?

**Chair Koivisto:**

I have one from the Secretary of State, and it is a wash. What they are charging in fees is what it would cost them to administer the program. When legislators file their disclosure reports with the Secretary of State, those are also not checked for accuracy, partly because the statutes do not authorize investigation unless someone files a complaint, and partly because of manpower and time constraints.

**Assemblyman Goedhart:**

I am sure there are some lobbyists who lobby both the Legislative and the Executive Branches of the government. Would that one registration fee take care of any and all lobbying, or would they have to pay a different fee based on the different branch?

**Nicole Lamboley:**

Because they are issued by two different branches of government they would be in corresponding but separate chapters. I believe they would be separate registrations because they have a different time period. The LCB's includes the 120-day period of the legislative session and ours would be two registrations. This would all be developed in regulation. Maybe it would be done on a biennial basis, but it would be an annual renewal because someone may register in 2007 but not conduct any lobbying activity in 2008. That is something we could explore, but we have not contemplated it.

**Chair Koivisto:**

Thank you. We appreciate your work and your input. What we are doing is hearing from those who are either neutral or supportive of the legislation first.

**Craig Walton, President, Nevada Center for Public Ethics:**

[Read from prepared text in support of A.B. 142 but suggested some amendments ([Exhibit F](#)).]

Assemblyman Segerblom raised the question about giving gifts to the Governor's defense fund. On page 11, line 38 through line 12 on page 12, you will see that it says, "A lobbyist shall not make, commit to make or offer to make a monetary contribution to a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-elect, the Governor or the Governor-elect during the period beginning: Thirty days before a regular session ... till 30 days after ... 15 days for a special session ... the day after for a proclamation." Apparently there is a window when people could give to a Governor's fund, as lobbyists.

**Chair Koivisto:**

We tried to pass parts of this measure last session.

**Craig Walton:**

Yes, we know that and we hope to successfully answer any questions that might come up in either Chamber. The testimony today from Mr. Hearn and the Secretary of State's Office has helped clarify and more carefully define the matter.

**Richard Siegel, President, American Civil Liberties Union of Nevada:**

We think Section 5 of the bill would possibly require any of us who are lobbying to indicate if we are for, against, or neutral and I could have answered any of those three on this bill.

I am neutral because we have no opposition to anything in this bill that has to do with financial reporting. We do not have any problem with the concept, which is the major concept in the bill, that the lobbying regime be expanded to the Executive Branch for paid lobbyists. We have some problems with Section 5, however. We believe that the interests of the Legislature are served by having the existing lobbying registration ask about the issues that we will testify on. I listed three or four issues that I will lobby on as, in my case, an unpaid lobbyist. But this language requires positions on specific legislation, so we have a problem with "for", "against," or "neutral." That is a subjective determination.

We have a very strong problem with the penalties, both on the legislative and the executive sides. In this bill, there is the idea of losing your right to be a lobbyist and being charged with perjury. We think that is very daunting. We

particularly think that is a problem for small, non-professional organizations and unpaid lobbyists. Only paid lobbyists have these obligations on the executive side, but you have both paid and unpaid on the legislative side. Let us please, get rid of the unpaid lobbyist requirements on the legislative side. There is no logical reason why we should have both. We would like you to drop all of Section 5, but we particularly emphasize the aspect of obligations for unpaid lobbyists.

I have a general point about the obligations of unpaid lobbyists and very small organizations. We call this a "citizen legislature" for a reason. You are citizen legislators; you are working part-time and your obligations should not be the same as the New York Legislature or the California Legislature because this is not your principle occupation. You are making very little money, and, in general, we believe it does not require the same level of obligation, but even more so, the term "citizen legislature" goes to the lobbyist. I have been an unpaid lobbyist for 40 years. Now my organization, the American Civil Liberties Union (ACLU) is a fairly substantial organization with professional resources. Our first 20 years we were a mom-and-pop store but we were here, talking to legislators on no less than 25 bills a year from 1966 until 1986. To give us the obligation of monthly reporting on every bill in which we take a position with even one legislator, under potential penalty of losing our lobbying privileges and being charged with perjury, is something we truly object to. We think that it is a very serious problem for the citizens who come to this citizen legislature. I think you are talking about professional lobbyists. Let us focus on those professional lobbyists.

Finally, the issue of the charge for the ethics course: I remember once I contacted the Governor's Office, asking him to veto a bill that had been passed in the Legislature, and he did. If that was the only act I had done as a lobbyist, to put me through having to register as an executive lobbyist and take a course that might cost me \$75 would be onerous. Paid or unpaid, I believe there are some very real problems and issues with this kind of thing. At least on the Executive side you have taken out the unpaid lobbyist element and you need to do that on the Legislative side. Let us keep a citizen legislature.

There is so much frustration in this bill. I support financial reporting, and we have been reforming the election laws and reforming the lobbying laws since 2001. There is something wrong with the situation. I think the top three leaders on both committees should have a couple of dinners together and try to establish some meeting of the minds. Having these separate processes, coming out with bills that you pass and they kill, does not get anyone anywhere.



**Chair Koivisto:**

As I look at subsection 3, Section 5, it does not say you have to say you are opposed or supporting. I think that language intended you should indicate general issues, but it is not very clear.

**Richard Siegel:**

We are asking that the lobbying form for legislative lobbying indicate what general issues you lobby on and if that is all that is required, we do not have a problem with it, because that is really a one-time obligation. If we are saying they are general issues of lobbying, it seems to me that should be done on a one-time-only basis with the obligation to amend if it becomes necessary. We do not need monthly or quarterly reports to indicate what general issues people are lobbying about.

**Chair Koivisto:**

I think that is probably a good point. Our analyst Patrick pointed out to me that it does not say you have to indicate whether you are lobbying in support or against. The language is confusing.

**Patrick Guinan:**

Mr. Siegel is correct. In Chapter 218.920, the section under discussion here in subsection 5 reads that they need to file a description of the principle areas of interest on which the registrant expects to lobby, so that is looking forward into the future on what they expect to do. This bill requests that they list what they have lobbied on in the past. I do not know for certain why the drafter did it this way. It may be because they felt you would now know exactly what you had done and that they would like the exact listing, rather than a look into the future at what you may be doing; because you cannot, at that point, list the bills you would be looking at.

**Richard Siegel:**

What I have to do now is pay a small fee to register. I indicate what issues I am going to be involved in. They make it very easy for me to be an unpaid lobbyist. Within the ACLU leadership we discussed this yesterday, and even as the professional organization we are now, we would really find it very onerous. Frankly, we are dealing with 50 to 100 bills. We would find this very onerous, but as a mom-and-pop operation like we were for the first 20 years, with no paid staff and no background, it really would be very difficult. As far as the Legislature goes, I hope you can leave it the way it is. No one has made the case that there is an obvious problem. I have not heard that you need to know which 60 bills the ACLU is lobbying on. After all, 90 percent of them are on the record at the committee hearings. There are a number of you I banter with

before hearings or out in the hallways. At what point am I actually taking a position? We are really concerned about that. There are many people who would like to embarrass the ACLU or embarrass the Eagle Forum or embarrass someone else. This is a way we could be embarrassed. Someone could say, "You said you lobbied on these 32 bills, but on February 12 you talked to me about this other bill." We do not want to face that kind of thing.

**Chair Koivisto:**

I think that is another area we need to deal with. What we are going to have to do with this piece of legislation is probably put it in a subcommittee or in a working group. Like any complicated piece of legislation, there are a lot of questions and a lot of changes that are going to have to be made to this to make it, I do not want to say "palatable" because we do not pass laws because they are palatable, we try to pass laws to correct something or make something better. We also do not want to make life difficult for people.

**Assemblyman Segerblom:**

You raise a good point about differentiating between unpaid and paid lobbyists with respect to bills you lobby on. I had a proposal that would prohibit, or at least require, lobbyists to identify bills in which they have a financial incentive. If there is a bonus situation involved, either that would be prohibited or they would have to disclose that upon passage of certain legislation they would be receiving a special award.

**Assemblyman Ohrenschall:**

The requirement in Section 5, paragraph 3, brings to mind a report several years ago by the Progressive Leadership Alliance of Nevada, called Jackpot (The Supreme Jackpot) which dealt with the judiciary and fundraising, and tried to analyze decisions. Could some of this information be instructive for the same purpose? Could we try to conduct a similar type of analysis with our Executive and Legislative Branches of government to see if the big spenders have more success in their advocacy, versus the mom-and-pop operations?

**Richard Siegel:**

We understand that transparency has its virtues and you are indicating that one of the virtues is we can study and analyze abuse of the process in the Nevada context. That might be very interesting, but that is not a First Amendment interest and to us, the issues in subsection 3 go to the heart of the First Amendment. Section 9 says we want to do nothing in this bill that is an impediment to the rights of speech and petition. We just think Section 5 absolutely is an impediment to speech and petition.

**Chair Koivisto:**

Very well put, Dr. Siegel.

**David Schumann, Vice Chairman, The Nevada Committee for Full Statehood:**

I am here to speak against this bill. To put my comments in context, I would like to read from a document called *The Constitution of the United States*. Amendment number one, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

I am going to go through the bill and demonstrate some abridgements of my right to petition the government for redress of grievances. The fiscal note makes a point, "increases and newly provides for term of imprisonment in county or city jail or detention facility." So this bill will send people to jail.

Looking at paragraph 3 of Section 5; that together with subsection 2(e) of Section 6, could be a death sentence: "a list of any legislation of which the registrant opposed or urged introduction, passage or amendment during the previous month." Combine that with Section 6, subsection 2(e), "make the statements open and reports available for public inspection during regular office hours." La Raza Unida would love to hear that I am going to be objecting to giving Millennium Scholarships to "criminal aliens". La Raza Unida takes a dim view of people who do that and you put that on a website and people will come hunting for me.

When we talk about free speech, there are many sections in this bill that are very onerous, like the notion of giving a list of all the legislation. That means each bill you were for, against, or wanted to amend. That is against the *Constitution of the United States* and if any of us gets put in jail as a result, there will be a lawsuit.

As Mr. Siegel said, you are requiring us to report all through the interim whether we spent any money or not, or did nothing. The statement in Section 9 contradicts this. It says, "The Legislature declares that the operation of responsible government requires that the fullest opportunity be afforded to the people to petition their government for redress of grievances and to express freely to members of the Executive Department ...." The State of Nevada is 90 percent owned by the federal government. I have gone to the Attorney General and others and asked why they do not make this a state like Pennsylvania that is 98 percent owned except for ports. It never occurred to me that I should tell the Legislature that I contacted people in the Executive

Branch. I think as an American I absolutely have the right to do that, without telling anyone. The notion that I must list that contact somewhere so that anyone opposing me would get the right to see it is alarming. I do not want them to have my home address because they could do me some harm.

Section 21, "Each registrant shall file with the Secretary of State between the 1st and 10th day of the month after the end of each calendar quarter a report signed under penalty of perjury concerning his lobbying activities during the previous quarter, whether or not any expenditures were made." Even if I am not spending a dime, and as an unpaid lobbyist I do not spend a dime, I filled in my report for this quarter and sent it in, but now you are talking about doing it in the interim. I have no problem doing that during the session; between sessions it is harassment.

I think this bill is not necessary. We just make statutes enacting penalties for forbidden behavior, that is much cheaper than this. You say, "this, that, and the other thing—those are forbidden, we do not like them. You are going to go to jail if you do this." Maybe you set a minimum age for lobbyists of 25, but I challenge Mr. Hearn or anyone else to take a test on ethics with me, and I will do as well or better than anyone from the Ethics Commission in this State. I really have a hard time with anyone saying someone over 25 does not know the difference between right and wrong. We all know these things and we do not need an ethics commission to tell us they are wrong, we know it. When I was 16 or 17 I might not have known, I know it now.

**Chair Koivisto:**

Mr. Schumann, I think the things you are finding offensive in this are things that we will deal with in a work group. The things you are having a problem with are things other people are having the same problem with.

**David Schumann:**

I am glad to hear that. I believe the men who wrote the *U.S. Constitution* were wiser than anyone walking the planet right now, and I think we should think ten times before we contradict anything they wrote.

**Janine Hansen, representing the Independent American Party:**

This piece of legislation concerns me greatly. Some of my concerns have been mentioned, but I would like to place on the record a couple of other issues. The *Nevada Constitution* in Article 1, Section 9, says, "Every citizen may freely speak, 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." The interesting thing about this quote is that they

combine the two issues of liberty and the press. We know you do not dare pass any laws restraining the press, because you would be destroyed in the press if you tried to do it. They do not have to report who is on their editorial board or who they are endorsing for office. They do not have to report how they might be helping a particular candidate through the questions they ask or what they might publish. They can do whatever they please and no one dares do anything about their freedom of the press. We do not have the power to protect our freedom of speech as the press does, so our freedom of speech is continually under threat, but it should have the same hands-off approach that you give to the press because we deserve the same kind of protection of our liberty of speech as the press has. There should not be interference by government in those sacred liberties.

I am a paid lobbyist. I raise the money to run Eagle Forum and to help run the Independent American Party and also do outside consulting work in order to pay myself so I can be here. I have been a lobbyist since 1971. Most of the time I was here I did not receive any pay. Most of the people I work with are unpaid lobbyists and they would be subject to the same requirements. I never spend any money on lobbying, yet I am subjected to all these rules. I have candidates who will not run any more because of the reporting requirements. One woman I spoke with, a member of an appointed board, said she would no longer participate because her brother objected so much to her having to fill out all the financial disclosure forms.

If you begin adding these onerous reporting requirements, there will not be any citizens like me; there will not be any citizens like our unpaid lobbyists here, because they will not put up with it. If we are here, what will happen is we may have to participate in civil disobedience and simply refuse to do it. We have been able to challenge some cases. I distributed information concerning two court cases ([Exhibit G](#)). The case concerning the Socialist Party notes that third parties are not required to report because of fears of reprisal. I mentioned before some reprisal situations I have experienced because I sometimes take positions that are not very popular. If you want the citizens to go away and not participate, note that there are no paid lobbyists here today to testify against this legislation. They are planning to work behind the scenes. They will go to the Senate, but we are here to honestly discuss the issues with you. This will greatly dampen the participation of the citizens. They simply will not participate.

The problems with Section 5 have already been discussed. I greatly oppose Section 5. We are currently tracking at least 300 bills. How could we possibly do a decent job reporting on that number?

Looking at Section 9, the language says people should be afforded the opportunity to petition the "government for redress of grievances and to express freely to members of the Executive Department ...." That is absurd. This whole bill is designed not to do that. That is a false statement. This does not encourage people to participate. My friends went to speak to the Governor the other day. They were invited there to speak with him and as a result, the Agriculture Department head and Brand Inspector resigned. Before speaking with the Governor, should they have registered? The reason they had that information was that a whistle blower, afraid to go to anyone else, had gone to them about what was happening within the Agriculture Department, so it could be exposed and something could be done about it. That will not happen any more because right in the bill the definition of a lobbyist on page 6 is, "Appears in person in a state building ...." I guess you are a lobbyist if you appear in that building. I have appeared in that building next door many times. I have appeared in the Secretary of State's Office, in the Governor's Office, the Attorney General's Office, and in many other places. Do I receive compensation? Yes, I receive compensation because I raise the money myself so I can participate as a citizen lobbyist, so all these things will apply to me.

But note, in Section 15, subsection 2(b), the news media are exempt because they have a constitutional right not to be interfered with, but we do not have any constitutional rights. The Legislature continues to violate our right to free speech. The news media can fight back. They can go after you during your campaign and none of you will be reelected, but we do not have that power.

Another group that is exempt is government employees. There are more lobbyists in this building who are government employees than anybody else. They can come here and push for bigger government and plans they think are good. They do not have to register or have a badge and they do not have to report. Me, I have to do that. I have to pay my own way, but they are on my dollar.

This is a good way to shut down any citizen participation entirely. There might be some bad people who lobby in ways that are not appropriate, but I am sure they are already violating some other law. The Secretary of State's Office is suggesting we exempt legal counsel. Well, everyone is exempted except me. What do we have here? We have a situation where we do not want any citizens to participate.

**Assemblywoman Gansert:**

I appreciate everything you are saying. This is so important and it is important that you be here. If we take this to a work group I am wondering if we can

work this out because you, as a citizen, are vital to giving us input. I think this bill is significantly flawed. I think this Committee is going to work on this and I would appreciate the opportunity to be a member of that subcommittee.

**Janine Hansen:**

Referring to financial disclosure at the bottom of page 6, number 3, on line 37, I do not understand this. Do the lobbyists have to submit financial disclosure statements similar to that which candidates submit? No? Well, obviously if I cannot understand this perhaps there is some other wording that can be found. If it means that every lobbyist has to do that, then I will never be here again. I am not willing to submit all that information. It is not necessary in order for me to exercise free speech.

**Chair Koivisto:**

I think that is trying to get at lobbyists who spend money on influencing a candidate, lobbyists who take a candidate out to dinner or give gifts to candidates, something like that.

**Janine Hansen:**

But it talks about "financial disclosure" so it is confusing, at best. This is at the bottom of page 6 on line 42 where it talks about "involving a debt or interest in real estate required to be disclosed in a statement of financial disclosure." I have serious concerns about it.

We know this bill includes penalties of perjury. We have tried during the last eight years to get the former Secretary of State to resolve our questions about the financial disclosure statements and the candidate reporting statements, but he has never answered our questions. How can we sign, under penalty of perjury, when those questions have never been answered? We cannot sign something we do not understand. So, we are concerned about the reports required by the Secretary of State's Office and we are concerned by the Ethics Commission where we lose all our constitutional rights and have to testify against ourselves with no appeal process in place.

**Chair Koivisto:**

The language on page 6 refers to someone lobbying who might have a financial interest in common, or financial relationship of some sort, with the person they are trying to influence. In that case it needs to be disclosed.

**Janine Hansen:**

I hope you are right on that.

On page 8 it mentions an identification badge and that the Secretary of State shall inspect each statement. You already heard from them that they cannot inspect those statements, so we do not know if the statements will be true. Even if the Secretary of State could inspect those statements, if they do not conform on line 42 it says, "If a written complaint has been filed with the Secretary of State by any person alleging an irregularity or lack of truth as to the information filed." Any person can come up and allege that but what opportunity do you have to defend yourself? There a lot of people who do not like me. What kind of protections do we have under these circumstances if anyone can say our information is false? Will there be the speech police in the Secretary of State's Office? I have concerns about that, and then we have the fees, which are also a concern.

On page 9, where the "The Secretary of State may: Prepare and publish such reports ... Release the names ... who fail to file activity report ... Revoke the registration of any lobbyist ...." If all you have to do is show up in person at a meeting and you are considered a lobbyist, pretty soon you have no right to speak, so we have shut down freedom of speech. Further down the page, "The Secretary of State shall: (a) Make investigations on his own initiative with respect to any irregularities which he discovers in the statements and reports filed...", if we have to file reports on what we have said, I am not sure what that report is supposed to be. Are they going to determine whether it is right or wrong? Are they going to be determining what we think about an issue as opposed to what someone else thinks about an issue, or is this just the report that you were there? I do not know. It sure is scary.

I was talking to a lady who was interested in just coming down to the Legislature because she is interested in the issues, and when she looked over this bill and we talked about it today she said, "My, this causes me a lot of fear." Yes, it is fear because the government is going to be in charge of your speech now and you are going to be subject to, looking at Section 30, page 11, "A lobbyist shall not knowingly or willfully make any false statement or misrepresentation of facts." Another lobbyist came up to me the other day and said, "Did you know, Janine, that this one little thing you said here was not right?" I said, "Is that right? Well, I won't say that again," but I did not know that when I made that statement. Are we going to have the speech police deciding what we say when lobbying is true or false? This is absolutely incredible.

Then on page 12, in Section 31 it says, "Any person subject to any of the provisions contained in section 30 of this act who refuses," that might be me. I



would probably refuse, "or fails to comply...is guilty of a misdemeanor." Now I will be hauled off to jail. This is a scary bill, from my thinking.

I know you want to make things honest and above board but this is legislation that completely closes down lobbying. Just close it down and ordinary people are not going to participate because they are not going to put up with it.

**Chair Koivisto:**

The provisions are ones you are already complying with as a lobbyist.

**Janine Hansen:**

No, they are not.

**Chair Koivisto:**

Lobbying of the Executive Department is mirroring the requirements for lobbying the Legislative Branch.

**Janine Hansen:**

I beg to differ with you. It seems to be much more than that, especially if you look at Section 5. We never complied with that. We never had to comply with these other things in terms of just going to an executive meeting. It is a whole new thing for people who want to participate if they go to an agency. There is a whole list here.

**Chair Koivisto:**

Right. What we are trying to do is let the sun shine on the government. We want the government and what happens here to be open to the public because some members of the public feel that government is operating behind closed doors. By "government" I am referring to the "us" collectively as in legislators, lobbyists, and the relationships between legislators and lobbyists. We hear too often that there is a curtain and the public does not know what happens. This is our effort to try to help that. What we have heard from a lot of people today is that we have gone too far. There are things in here that will not work. We are going to try to fix that. We do appreciate your input, but haranguing us and making us feel like we are trying to shut people out—that is not what we are trying to do.

**Janine Hansen:**

I believe that is your intent.

**Chair Koivisto:**

We appreciate you helping us. When we have a work group to try to fix these things, maybe we will be able to allay your concerns.

**Janine Hansen:**

I hope so. I appreciate you listening to me. I do not mean to harangue. I have deep, serious concerns about this bill. I realize you are trying to do what is right. The problem is that sometimes the fix is worse. Free speech is often dirty, ugly, and problematic, but it is our constitutional right.

**Lynn Chapman, Nevada Eagle Forum:**

I use the same code of ethics book our Founding Fathers used. It is called the *Bible*. I have a problem with all the monies being spent with the Ethics Commission, and their budget just keeps getting bigger. Now we are talking about \$135,000—partly for classes. Why not just create a \$10 DVD? We pay \$10 and we get a DVD with lots of questions, answers, and a sample of required paperwork. I think that would be a lot better than trying to come up with a lot of money that I do not have. I am an unpaid, citizen lobbyist and have been since 1987. I do not have a lot of money to take classes every session and then pay to become a lobbyist as well. Quoting Thomas Jefferson, "The liberty of speaking and writing guards our other liberties."

**John Wagner, representing The Burke Consortium:**

I am concerned about several different things, some of which have already been mentioned. I am tracking about 150 bills on my own right now. If you want to know what I am lobbying for, I will give my card to the Committee secretary and when I signed in on the attendance roster, there is a record that I lobbied against this bill. There is a paper trail of where I lobbied. Technically speaking, I could turn in my badge and come up and talk all the time as a private citizen, but this would probably qualify me as a lobbyist whether I liked it or not. Also, I could sit at home and send emails to everybody. Would that make me a lobbyist as well? I am against the bill and everything else has already been said.

**Chair Koivisto:**

No, I do not think that would make you a lobbyist because if it did, there would be several thousand more, judging by the emails we get.

I would like to appoint a working group to work on this bill and ask Mr. Conklin to chair. Mrs. Gansert expressed an interest, so I would ask her to serve and Mrs. Kirkpatrick and Mr. Segerblom, too.

Assembly Committee on Elections, Procedures, Ethics, and Constitutional Amendments  
March 6, 2007  
Page 27

Is there anything else to come before the Committee? [No response] We are adjourned [at 5:53 p.m.].

RESPECTFULLY SUBMITTED:

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Terry Horgan  
Committee Secretary

APPROVED BY:

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Assemblywoman Ellen Koivisto, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Elections, Procedures, Ethics, and Constitutional Amendments

**Date:** March 6, 2007

**Time of Meeting:** 3:45 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
AB 142	C	L. Patrick Hearn, Exec. Dir., Nevada Commission on Ethics	Fiscal note summary
AB 142	D	L. Patrick Hearn	Talking points
AB 142	E	Nicole Lamboley, Chief Deputy, Secretary of State	Suggested amendments
AB 142	F	Craig Walton, Pres., Nevada Center for Public Ethics	Letter in support with suggested amendments
AB 142	G	Janine Hansen, Independent American Party	Document citing court cases saying that third parties are not required to report