

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

**Seventy-fourth Session
March 27, 2007**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara K. Cegavske at 1:36 p.m. on Tuesday, March 27, 2007, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Barbara K. Cegavske, Chair
Senator William J. Raggio, Vice Chair
Senator Warren B. Hardy II
Senator Bob Beers
Senator Bernice Mathews
Senator Valerie Wiener
Senator Steven A. Horsford

GUEST LEGISLATORS PRESENT:

Senator Michael A. Schneider, Clark County Senatorial District No. 11
Senator Dina Titus, Clark County Senatorial District No. 7

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Michelle L. Van Geel, Committee Policy Analyst
Brian Campolieti, Committee Secretary

OTHERS PRESENT:

Leo Drozdoff, P.E., Administrator, Division of Environmental Protection,
Department of Conservation and Natural Resources
Paul Enos, Nevada Motor Transport Association
Jeanette K. Belz, Nevada Chapter Associated General Contractors

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Cheryl Blomstrom, Nevada Manufacturers Association; National Federation of Independent Business
Mary F. Lau, Retail Association of Nevada
Patrick T. Sanderson, Laborers' International Union Local 872
Gary Vause
Tony F. Sanchez, DeLuca Liquor and Wine, Limited
Craig Walton, Nevada Center for Public Ethics
Matt Griffin, Deputy for Elections, Office of the Secretary of State
Caren Jenkins, Carson City, Commission on Ethics
John L. Wagner, The Burke Consortium
Danny Tarkanian
Lynn Chapman, Vice President, Nevada Eagle Forum
David K. Schumann, Nevada Committee for Full Statehood
Sharron Angle, Former Assemblywoman
Jan Gilbert, Progressive Leadership Alliance of Nevada
Richard L. Siegel, President, American Civil Liberties Union of Nevada

CHAIR CEGAVSKE:

I open this meeting with Senate Bill (S.B.) 367.

SENATE BILL 367: Makes various changes concerning administrative regulations. (BDR 18-129)

SENATOR VALERIE WIENER (Clark County Senatorial District No. 3):

I urge your support for S.B. 367. I appeared before this Committee during the 73rd Session addressing several inefficiencies and inadequacies in the development and execution of regulations by state agencies. Senate Bill 367 takes another look at this process to ensure agencies conform to statutory authority and legislative intent. Senate Bill 367 is a response to ongoing concerns expressed by the public and Legislators serving on the Legislative Commission that reviews the regulations. I have asked Legislative Counsel Brenda J. Erdoes to explain the proposed changes to the Committee.

BRENDA J. ERDOES (Legislative Counsel):

The first section of S.B. 367 states that before holding a hearing, a three-day notice is given to the Legislative Commission or the Committee to review regulations. In addition, a list of regulations is to be posted for public access. We print that on the agenda now, but it is not in statute. A new requirement on page 2, section 1, line 21 of S.B. 367 requires the list of regulations to be

posted on the Legislative Counsel Bureau's (LCB) Website. The rest of the sections of S.B. 367 are amendments and cleanup. Section 2, subsection 1 of S.B. 367 states notice must be given after receipt of approved or revised text. An amendment to S.B. 367 ([Exhibit C](#)) has been provided by the Division of Environmental Protection. Section 3 of S.B. 367 requires an agency, when giving notice of intent, acting upon a regulation to include the text of the regulation as prepared by LCB and provide that text before a hearing notice is released.

Section 4 deals with internal reference changes. Section 5 prohibits an agency from holding a public hearing on a proposed regulation on the same day it holds a workshop for that regulation. When the Legislature added the provisions requiring a workshop, there was no indication in the *Nevada Revised Statutes* (NRS) that those could not be held on the same day, which has become a prevalent process. Section 5 proposes a large change: agencies must hold a workshop on a different day than the hearing on the regulation. Section 6 revises the deadline by which the agency must deliver a copy of the proposed regulation or amendment to the LCB at the same time it gives notice of intent to adopt, amend or repeal. Section 7 revises the review procedure of temporary regulations so it is identical to the review procedure for adopted regulations. That is probably fixing a drafting error on LCB's part. Section 9 removes a provision that conflicts with the procedure for reviewing regulations. Sections 10 and 11 revise the circumstances under which LCB is required to provide a statement of the reasons for any objection to a regulation. Currently, that provision requires LCB to give notice when an agency has a regulation rejected and a statement why it was rejected. If S.B. 367 is passed, it will be effective July 1.

CHAIR CEGAVSKE:

I have concerns with sections 3, 5 and 6 of S.B. 367. Do they make the process longer by adding more days?

MS. ERDOES:

Yes, it adds 30 days, because agencies give the regulation to the Legal Division of LCB for review at the same time they post their notice.

CHAIR CEGAVSKE:

Was adding 30 days to the initial 30 days the intent of Senator Wiener?

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SENATOR WIENER:

This is to allow review from all interested parties rather than only LCB.

CHAIR CEGAUSKE:

Sixty days is what you intended? Prolonging the process concerns me.

SENATOR WIENER:

Several witnesses have experienced the need for the extension.

CHAIR CEGAUSKE:

Senator Wiener has provided other statements concerning S.B. 367 ([Exhibit D](#)) to the Committee.

LEO DROZDOFF (P.E., Administrator, Division of Environmental Protection, Department of Conservation and Natural Resources):

The Division of Environmental Protection (DEP) is neutral on S.B. 367. However, we provided [Exhibit C](#) to offer amendments. The DEP processes regulatory language changes through the State Environmental Commission. As general operation practice, the DEP works to submit drafts and proposed regulations to LCB well in advance of the 30-day period. The DEP and LCB staff have worked diligently together to complete the LCB version in the required time frame. This process works great, and we appreciate LCB's efforts. Scheduling State Environmental Commission hearings takes months of planning and coordination to find a final date. Senate Bill 367 will create problems if hearings are postponed. The DEP requests section 1 of S.B. 367 be amended as proposed in [Exhibit C](#). [Exhibit C](#) also addresses the issues we have with temporary regulations addressed in section 3 of S.B. 367. Government agencies are moving toward paperless operations, and the DEP sees S.B. 367 as burdensome. It is not uncommon for changes to be woven through 50-plus pages of regulatory text. This could become excessive and cost far more than the \$350 this process takes now. In the event this statute is further interpreted to require a full text be published in a newspaper, it worsens the problem. The NDEP ensures all interested parties have access to proposed regulations by providing full text to the State Library and local libraries as well as electronic notice of location on our Website.

PAUL ENOS (Nevada Motor Transport Association):

I support S.B. 367. Last spring, we had an issue with the proposed regulation by the Department of Motor Vehicles (DMV). They no longer wanted to issue

medical waivers for commercial driver's licenses. The DMV scheduled a workshop and a hearing on the same day. The impact of the proposed regulation would have put 394 people out of work in Nevada. Section 5 of S.B. 367 prevents that from happening in the future.

CHAIR CEGAUSKE:
Do you have an issue with the added time?

MR. ENOS:
We have no issue with that.

JEANETTE K. BELZ (Nevada Chapter Associated General Contractors):
We support S.B. 367 and ask you to review the letters presented in [Exhibit D](#). Adding the extra period of time will help us prepare for hearings. Sometimes, section numbers of regulations are different. When we have people in Las Vegas without copies, that causes confusion on what portion of the regulation to which you are testifying. Requiring an LCB comment when the 30-day notice requirement is posted gives us the opportunity to comment. I received a notice earlier this week of a regulation review hearing. Someone forwarded the agenda to me on a regulation of my interest. I subsequently went to the LCB Website and discovered it was not posted. Eventually, LCB posted the regulation. Without my own inquiry, I may not have seen a copy of the regulation prior to the hearing.

CHERYL BLOMSTROM (Nevada Manufacturers Association; National Federation of Independent Business):
We support S.B. 367. The Office of Labor Commissioner recently adopted regulations related to minimum wage. They held a workshop in Las Vegas and Reno and held the adoption hearing immediately following the workshop. The change made between both meetings put people at a disadvantage without having the current language or potential suggestions from the work session.

MARY F. LAU (Retail Association of Nevada):
We support S.B. 367 and have no objection to [Exhibit C](#).

PATRICK T. SANDERSON (Laborers' International Union Local 872):
We support S.B. 367 and the additional time it will provide.

GARY VAUSE:

I own and operate child care facilities and am active with the Child Care Association of Nevada. We support S.B. 367. However, we would support an amendment stating if an agency promulgating a rule or regulation fails to address the economic impact of the regulation on parties, that regulation has no force or effect. If an agency wants to raise, for example, the cost of child care, they should only do so through the Legislature.

CHAIR CEGAUSKE:

Did you speak with Senator Wiener or staff about your concerns?

MR. VAUSE:

Yes, I did.

CHAIR CEGAUSKE:

I close the hearing on S.B. 367 and open the hearing on S.B. 430.

SENATE BILL 430: Authorizes the Director of the Legislative Counsel Bureau to include the sale of souvenir wine in the Legislative Gift Shop.
(BDR 17-1283)

SENATOR MICHAEL A. SCHNEIDER (Clark County Senatorial District No. 11):

Senate Bill 430 allows the LCB Gift Shop to sell souvenir wine decorated with a label of the Nevada State Capitol and Nevada State Legislature buildings. The Secretary of the Senate, Claire J. Clift, provided me with a nice bottle of wine from the Legislative Assembly of British Columbia called House Red. California, Oregon and Washington sell wine in their legislative buildings as well. Many of the Legislators I have spoken to support the idea of selling wine in the Gift Shop. It will complement our Legislature and our Capitol as gifts. The only question I have is about the LCB's tax exemption and if wine selling would fall under the Nevada Three Tier System. Some lobbyists had concerns with how the LCB will go around the Nevada Three Tier System. I do not see why the LCB would do that.

Nevada has a fledgling wine industry in the Genoa area, and they could offer their wine in the LCB Gift Shop as well. I talked to Lorne J. Malkiewicz, Director of the LCB, and he said he does not have a problem with S.B. 430.

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CHAIR CEGAVSKE:

Senate Bill 430 exempts the Legislature from taxes. The Legislature makes that decision.

SENATOR MATHEWS:

We are not exempt from sales tax.

CHAIR CEGAVSKE:

Yes, and S.B. 430 exempts us from having to get a liquor license.

TONY F. SANCHEZ (DeLuca Liquor and Wine, Limited):

Our inquiry about the Nevada Three Tier System is whether the wine needs to be purchased by a Nevada wholesaler. Every time you make an exception to the system, it causes potential problems in terms of the overall structure of Nevada's regulatory system.

CHAIR CEGAVSKE:

That is a concern I have with S.B. 430. Could you go over your concern with the Three Tier System?

MR. SANCHEZ:

Senate Bill 430 is not clear whether wine sold from the LCB Gift Shop needs to be obtained through a wholesaler licensed in Nevada.

CHAIR CEGAVSKE:

This issue is not clearly addressed in S.B. 430? Do you want language stating the Three Tier System?

MR. SANCHEZ:

Yes, as opposed to a wholesale exclusion.

CHAIR CEGAVSKE:

I close the hearing on S.B. 430 and open the hearing on S.B. 425.

SENATE BILL 425: Makes various changes relating to campaign practices.
(BDR 24-905)

SENATOR DINA TITUS (Clark County Senatorial District No. 7):

In the mid-1990s, the Nevada State Legislature enacted an amendment to NRS 294 establishing a blackout period during which time Legislators and the Governor cannot solicit or accept campaign contributions. The rationale for the blackout period was to remove impropriety or coziness between donors and votes cast on issues before the Legislature. This was established to avoid direct pay-to-play votes up for sale. The same check does not exist at the local level where governments meet year-round on a weekly basis. As a city council member or county commissioner, you can take a check from a donor in the morning and vote on that donor's proposed zoning change in the afternoon. That is classic pay to play. If you look at recent campaign finance reports, you find this frequently happens. Even if peoples' votes are not for sale, it certainly appears to the public that might be the case. Senate Bill 425 addresses the issue of pay to play at the local level by creating a parallel blackout period similar to the one existing for the Legislature and Governor.

Senate Bill 425 stipulates a member of a local government cannot solicit or accept a contribution from anyone who has an application before the council at that time. The blackout period runs from 30 days before until 30 days after a vote. Section 1, subsection 4, paragraph (b) of S.B. 425 states that political contributions as well as legal defense funds are included in the blackout period.

SENATOR MATHEWS:

Was there a reason you did not include all Constitutional Officers?

SENATOR TITUS:

Under the original statute, the limitation applies only to the Governor and Lieutenant Governor because they vote on policy during Legislative Session whereas other officers do not. I would not object to including all Constitutional Officers.

SENATOR BEERS:

Sometimes, the Governor, State Treasurer and State Controller serve as ex officio members of boards that vote on policy.

SENATOR TITUS:

That is why I would not object to including all Constitutional Officers.

CHAIR CEGAVSKE:

Who would regulate this? Would the Commission on Ethics have to be the watchdog on this issue?

SENATOR TITUS:

Yes, just as they are on campaign contributions. Certain limitations exist at the local level; S.B. 425 provides an additional limitation.

CHAIR CEGAVSKE:

Did you think of anything along the line of addressing these issues during campaigns?

SENATOR TITUS:

There is a bill that attempts to address the problem by stating officials cannot raise funds except during election years. If you limit the time people can raise funds, the process is more restrictive and may keep some people out of the process. Senate Bill 425 creates a clean-cut, direct connection between the vote and the contribution.

CRAIG WALTON (Nevada Center for Public Ethics):

We support S.B. 425. Section 1 forbids any contribution to an elected public officer 30 days either side of an action the donor seeks from that elected officer. Currently, city and county officers can be given a contribution in the morning and vote on the desired action in the afternoon. Only Legislators are covered by the blackout. We support this language. In addition, we have questions about how section 2 of S.B. 425 addresses legal defense funds. A legal defense fund for a criminal or civil charge against a person may have nothing to do with an elected official's actions under his or her political responsibilities. It is useful to qualify the phrase and say legal defense funds not organized concerning civil or criminal charges are deemed to be organized for political purposes. Can an elected official's political action committee legally be asked to do the work of a legal defense fund without being covered by the NRS? If so, that loophole needs to be closed to achieve the intended purpose of S.B. 425.

SENATOR TITUS:

Contributions from the defense fund may come from people who have issues before you. Regardless of the kind of defense—legal, criminal or administrative—it should be included.

MATT GRIFFIN (Deputy for Elections, Office of the Secretary of State):
The Secretary of State supports S.B. 425. Certain funds created in defense are allowed to exist and regulated the same way as any other contribution.

SENATOR RAGGIO:
To prohibit a legal defense fund for any and all purposes is not appropriate. Regulation is acceptable over prohibition. There can be many reasons for people in public positions to have legal defense funds. We need to look at what other states are doing and avoid the prohibition of legal defense funds.

SENATOR TITUS:
I support what the Secretary of State is doing to regulate legal defense funds. Senate Bill 425 does not outlaw legal defense funds. Senate Bill 425 puts a blackout period on legal defense funds just as the blackout period on contributions.

SENATOR RAGGIO:
I understand what you are saying, but you overlook the fact that S.B. 425 applies to all people in local government. These people could never have a legal defense fund because they work year-round.

SENATOR TITUS:
I disagree. Senate Bill 425 states you could not accept a contribution to your legal defense fund from anyone who has something pending before you. If you do not have a license pending before you, you can accept a contribution from them to your legal defense fund. Senate Bill 425 only keeps you from taking a contribution from a person who has something before you.

CAREN JENKINS (Commission on Ethics):
The Commission on Ethics' jurisdiction is limited to the provisions of chapter 281 of NRS, and S.B. 425 affects chapter 294 of NRS.

CHAIR CEGAVSKE:
Then the Secretary of State's Office deals with S.B. 425?

MS. JENKINS:
That is my understanding.

JOHN L. WAGNER (The Burke Consortium):

I hope S.B. 425 is not specifically for the Governor. Legislators should be able to raise a defense fund if they need it. Senate Bill 425 is unfair. There should be disclosure on who puts money into the defense fund, but regulation is not appropriate. I am against S.B. 425 as written.

SENATOR HORSFORD:

Section 1 of S.B. 425 does not apply to the Governor. Senate Bill 425 is not targeted at an individual elected official but all elected officials in Nevada.

CHAIR CEGAVSKE:

I close the hearing on S.B. 425 and open a work session for S.B. 230. Staff has provided a worksheet of amendments on S.B. 230 ([Exhibit E](#)). Senator Wiener had a proposed amendment as well, and I will have staff explain why we do not need it.

SENATE BILL 230: Requires person signing petition for initiative or referendum to print given name followed by surname on petition. (BDR 24-180)

MICHELLE L. VAN GEEL (Committee Policy Analyst):

Amendment 1 is on the first page of [Exhibit E](#). Senate Bill 230 did not specify the order of printing and signing a voter's name so it is up to the Committee. Right now, the Secretary of State decides how the form is arranged. The Committee may add language to S.B. 230 to require printing the voter's name first and the signature underneath.

CHAIR CEGAVSKE:

I misspoke, Senator Wiener; we may either add that language or ask the Secretary of State if their intent is to do the format.

MR. GRIFFIN:

I have not had a chance to discuss this with the Secretary of State. This would probably be referred to the will of the Committee.

CHAIR CEGAVSKE:

We could include Senator Wiener's amendment if she would like.

MS. VAN GEEL:

Amendment 2 on page 2 in [Exhibit E](#) was brought to the Committee from the Secretary of State's Office. The Committee expressed concern about this amendment; the initial date for September cannot be changed in S.B. 230 as it is in the *Constitution of the State of Nevada*. Senator Beers offered an amendment to change the complaint periods at the beginning and end of the cycle from 30 days to 15 days. There are three possible changes to the time period on page 3 of [Exhibit E](#).

SENATOR RAGGIO:

My concern with Senator Beers' amendment is whether 15 days gives enough time for legitimate challenges. It seems too short.

SENATOR BEERS:

That is three weeks. Although not specified in the law, we meant workdays. Fifteen workdays is three weeks.

SENATOR RAGGIO:

That is acceptable if clarified as three weeks.

MS. ERDOES:

Senate Bill 230 excludes Saturday, Sunday and holidays.

SENATOR HARDY:

Mr. Griffin's amendment and Senator Beers' amendment do not cancel each other out. The 15 days addresses Mr. Griffin's concern; we could only do the 15 days and not adopt Mr. Griffin's amendment.

CHAIR CEGAVSKE:

Senator Beers feels his amendment goes along with Mr. Griffin's.

SENATOR BEERS:

The two amendments go well with each other. It would be interesting to see how many challenges from the last election cycle were filed on the last day. It appears as a deliberate strategic tactic not to file any objection until the last day to do so.

MR. GRIFFIN:

I do not have that data today. I can get it for you as soon as possible. What you expressed has been a practice in the past.

SENATOR BEERS:

Mr. Griffin's proposed amendment intended to ease up on the registrars who must prepare ballots. They prefer to have a month of additional time in order to prepare ballots. My proposal was an attempt to leave the same amount of time available for signature-gathering.

SENATOR HORSFORD:

I agree with Senator Raggio concerning Amendment 3 in [Exhibit E](#). I do not know why we would shorten the time period when legitimate complaints may be brought forward. Any complaints should be adjudicated in order to ensure that a petition is qualified. We will remove the opportunity for those complaints to be fully vetted by the courts. I am reluctant to support the Secretary of State's amendment to advance the date. That takes away people's rights to organize petitions.

SENATOR BEERS:

Amendment 3 in [Exhibit E](#) reduces the 30 working day period to 15 working days to file a complaint. These complaints are prepared ahead of time. Amendment 2 sets the date for a hearing so it does not compromise the ability to adjudicate an issue. It just compromises what is on the court's existing docket and requires the court to put this at the front of the docket.

SENATOR HORSFORD:

I prefer to vote separately on the amendments proposed.

SENATOR RAGGIO:

I am comfortable with Amendment 3 since 15 days was explained as 3 weeks. I want elections conducted on time and do not want potential delays for preparing or conducting the election. I support all the amendments in [Exhibit E](#).

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 230.

SENATOR BEERS SECONDED THE MOTION.

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CHAIR CEGAVSKE:

Staff pointed out that section 2 on page 3 of [Exhibit E](#) addresses the courts, and section 1 addresses the people.

THE MOTION CARRIED. (SENATORS MATHEWS AND HORSFORD
VOTED NO.)

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SENATOR MATHEWS:

I voted no because I see no harm in voting on each amendment separately.

CHAIR CEGAVSKE:

I agreed to do that but did not receive a motion. I open the discussion on S.B. 210. While waiting for an amendment, we found out the person bringing the amendment had misinformation about what was in the NRS. That has been clarified. Based on that, there is no amendment proposal.

SENATE BILL 210: Revises provisions relating to reimbursement of subsistence and travel expenses relating to the conduct of public business. (BDR 23-569)

SENATOR RAGGIO:

The Committee has heard this on two different occasions. Having the rate in the NRS has been a concern. Senate Bill 210 is the answer to this problem. Nevada State employees should be reimbursed appropriately. We do not want to lose good employees because they do not receive appropriate reimbursement.

SENATOR BEERS:

What are the Committee's thoughts on setting it at the federal per diem rate and taking into consideration different markets and seasons? Wage accounting gets complicated for employees and employers if we exceed the federal per diem rate.

CHAIR CEGAVSKE:

Would you recommend that we use federal rates instead of state rates?

SENATOR BEERS:

At the very least, cap what the State Board of Examiners can set at the federal per diem rate or set it at the federal per diem rate.

Ms. ERDOES:

We could draft an amendment to tie rates to the federal per diem rate.

SENATOR RAGGIO:

I have no problem with the way S.B. 210 is written.

SENATOR MATHEWS:

I agree with Senator Beers because I am thinking about how the price of stamps goes up every few years. Wages should be set at the federal per diem rate.

SENATOR BEERS:

We should set the state per diem rate at the U.S. General Services Administration (GSA) rate. When employees and employers are reimbursed at the GSA rate, it is not taxable and you do not need to keep receipts.

SENATOR RAGGIO:

In that case, does it have the 50-mile exemption stating if you live within 50 miles of your destination, you do not receive reimbursement? That would be an impediment to state employees.

Ms. ERDOES:

Yes, it does have that stipulation.

SENATOR RAGGIO:

Then that is income, which is not a good way to set the per diem rates.

SENATOR BEERS:

It is income unless reimbursed under the GSA rules. Perhaps we should have the Legal Division of LCB do more research.

CHAIR CEGAVSKE:

As a result of this issue we will postpone any vote on S.B. 210. I close the discussion on S.B. 210 and open the hearing on S.B. 385.

SENATE BILL 385: Revises certain provisions relating to voter identification.
(BDR 24-447)

MS. VAN GEEL:

My position with the LCB does not allow me to advocate for any piece of legislation as I will be presenting an overview of S.B. 385 for the Committee's consideration. Senate Bill 385 requires a voter to present current and valid photographic identification when voting. Senate Bill 385 defines "current and valid identification" as a driver's license or identification card issued by the DMV; an identification card issued by a branch of the Armed Forces; a United States (U.S.) passport; an identification card issued by an Indian tribe; or a voter identification card issued by a county clerk. Senate Bill 385 also requires the Secretary of State to ensure each county clerk provides at least one location where a voter who does not possess any form of current valid photographic identification may apply for and receive a voter identification card free of charge. In addition, the Secretary of State is required to prescribe an application for a voter identification card. An applicant for such card must present the county clerk with: documentation showing the person's date of birth, evidence that the person is a registered voter in Nevada and documentation showing the person's name and address. A voter identification card issued by the county clerk must include: the person's name, address, date of birth, sex, height, weight, eye color and photograph; the date the voter identification card was issued; the name of the county in which the voter identification was issued and any other information required by the Secretary of State.

Senate Bill 385 also requires a request for an absentee ballot include: the name and address of the registered voter requesting the absentee ballot; date of birth of the registered voter; statement that the person requesting the absentee ballot is a registered voter; statement identifying the election for which the absentee ballot is requested; political affiliation of the voter if the absentee ballot is requested for a primary election and address to which the registered voter desires the absentee ballot be mailed. Finally, the bill requires either the driver's license number of the registered voter, last four digits of the Social Security number of the registered voter or a current and valid copy of one of the following documents that indicates the name and address of the registered voter: photographic identification, military identification, utility bill, bank statement, paycheck or document issued by a governmental entity, including a check but other than a voter registration card. Senate Bill 385 is effective on

October 1 for the purpose of adopting regulations and other preparatory administrative tasks, and effective on October 1, 2008 for all other purposes.

SENATOR MATHEWS:

Senate Bill 385 makes it much more difficult for people to vote in terms of the requirements presented. Do we really want to do this? It seems like we are returning to the days of poll taxes.

CHAIR CEGAVSKE:

One reason S.B. 385 was brought forward was because of poll worker concerns. During the 2006 election, poll workers in Clark County District No. 8 were concerned about people asking to vote without knowing their identity. When I vote, I always have my identification and no problem presenting it to poll workers. No citizen should have a problem with showing identification and stating their identity.

SENATOR BEERS:

Senate Bill 385 is not intended as a poll tax. The idea came to my attention from the Commission on Federal Election Reform.

DANNY TARKANIAN:

Three years ago, I ran for Nevada State Senate. I campaigned door-to-door and encountered people who said they were not registered to vote. I would explain their name was listed as a registered voter who voted in the last few elections. There are no safeguards to prevent these types of actions. If a person wants to register to vote, they will be asked to show identification. If he or she does not have identification, they must sign an affirmation under oath that they do not have a driver's license and are a resident of the state. Once this is done, the person can vote without showing photo identification. It is important we have an open process that allows all to vote freely and equally. We have competing values that we only allow legally registered voters to vote. You must weigh these competing concerns. National newspapers indicate our voting process is abused across the U.S. We have a wide-open process that allows this type of fraud to occur, and something must be done.

We have tried to make it easier for people to vote, and I applaud that process. We have 15 days to vote and mail in ballots which makes the process easier. At the same time, we need to keep the integrity of our election process intact with competing safeguards. I recommend following the guidelines presented by the

Commission on Federal Election Reform. Senate Bill 385 states a driver's license or other identification card issued by the DMV could be used to register to vote. The DMV is not the only entity in the state that provides identification cards. This requirement should be open to all state identification cards. Photo identification cards are required to board an airplane, cash a check, open a bank account and buy decongestants. Voting is at least as important as these; if people are required to have an identification card for these purposes, the process must be available and as accessible as possible.

CHAIR CEGAVSKE:

Section 3, line 22 of S.B. 385 states a "fee must not be charged for a voter identification card."

MR. TARKANIAN:

I understand that. The Commission on Federal Election Reform recommends you use all state identification cards. However, there is a charge for some of those cards which would violate the Twenty-fourth Amendment of the *Constitution of the United States of America*. We should have a state-issued identification card used for voting purposes only. We need to make sure everyone who wants a card gets one. In addition, there should be some type of motor service provided to people without transportation. There will be an additional cost, but it will be less than the cost of litigation related to the constitutionality of S.B. 385. An additional problem with S.B. 385 concerns absentee ballots. Why would you want voters to mail a copy of their voter identification card or any other state-issued photo identification card? It would be easier to have them mail in a utility bill. It would require the same type of documentation required when voting in person. In conclusion, I support S.B. 385.

SENATOR HORSFORD:

The Commission on Federal Election Reform report listed 87 recommendations for elections. Many of the recommendations went to voter intimidation and access to polling places. Would you support those provisions in the reforms of polling place locations as with the voter identification provision?

MR. TARKANIAN:

I would. Anytime a voter is denied or deprived of the opportunity to vote because of the situations you mentioned, we have a defective voting process. The problems we have with the voting process need to be eliminated.

SENATOR HORSFORD:

There are instances when people had their identity stolen by others in order to vote. In Clark County, I have experienced situations where legitimate voters have been turned away from their polling locations. That is just as egregious; we should work to address those issues as well.

LYNN CHAPMAN (Vice President, Nevada Eagle Forum):

We support S.B. 385. However, we have concerns with voter identification cards having Social Security numbers. Social Security numbers should not be on these cards.

MR. WAGNER:

We support S.B. 385. A photo identification is good for security purposes and helps bring integrity to our voting process.

SENATOR HORSFORD:

Who would cover the expense of the free voter identification card?

CHAIR CEGAUSKE:

The county clerk would cover the expense.

DAVID K. SCHUMANN (Nevada Committee for Full Statehood):

We support Senate Bill 385. Anyone can get a voter identification card without a birth certificate. That means an illegal alien could get a voter identification card without being a citizen. The Committee should not accept what is written in section 2, line 39 of S.B. 385. Anyone can get a utility bill, that does not prove anything.

CHAIR CEGAUSKE:

The utility bill requirement is for absentee ballots only.

MS. ERDOES:

You must have a photo identification in addition to the utility bill. The utility bill just shows your address.

MR. TARKANIAN:

Will the voter identification card have a photograph?

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CHAIR CEGAVSKE:
Yes.

MR. TARKANIAN:
Where does S.B. 385 require a photo along with current requirements?

SENATOR BEERS:
I need that same clarification. Section 3 of S.B. 385 explains a card will be issued to people who do not have any other type of identification.

CHAIR CEGAVSKE:
You are in the wrong section; we are looking at section 12, subsection 4.

MS. ERDOES:
Section 2 of S.B. 385 requires a current and valid photographic form of identification. That is where S.B. 385 confirms there will be a photograph on the identification card issued by the county clerk.

SENATOR BEERS:
I do not see that in section 3. Section 5 requires that a voter identification card issued pursuant to section 3 must include a photograph.

CHAIR CEGAVSKE:
The confusion is with regard to the absentee ballot requirements.

SHARRON ANGLE (Former Assemblywoman):
I support S.B. 385. I am pleased to see the issue of photographic identification dealt with again. Most people in the U.S. have photographic identification because it is required for many things. My father, who can no longer drive, needs photographic identification in order to cash a check or notarize a letter. Any arguments against S.B. 385 are thin.

CHAIR CEGAVSKE:
Section 6 of S.B. 385 states the Secretary of State shall "Provide to each county clerk the necessary equipment, forms, supplies and training for the production of voter identification cards."

MR. GRIFFIN:

We were not sent a request for a fiscal note on S.B. 385. The way I view S.B. 385, it is the fiscal responsibility of the state to provide necessary equipment to produce identification cards as well as all training.

JAN GILBERT (Progressive Leadership Alliance of Nevada):

We oppose S.B. 385. Voting is a constitutional right, not a privilege. Voter fraud is rare and existing criminal penalties successfully deter it. There were only 4 instances of voter fraud in Ohio last election out of over 9-million ballots cast and 52 incidents in the United States from October 2002 to January 2005 out of 196-million people voting. Voter fraud is not a problem. We are also concerned about what S.B. 385 will do to seniors, disabled people, the homeless, immigrants and domestic violence victims. Senate Bill 385 could be seen as intimidation by these people.

RICHARD L. SIEGEL (President, American Civil Liberties Union of Nevada):

We oppose S.B. 385. The American Civil Liberties Union (ACLU) is fighting in three states against legislation similar to S.B. 385. Senate Bill 385 is biased in its impacts against nonwhite Americans and immigrants. I have presented my comments regarding S.B. 385 to the Committee ([Exhibit F](#)) which address the issue of illegal voting. No evidence of illegal voting has been presented to this Committee. The last thing undocumented citizens want to do is show up at a polling place and be charged with a felony. Voter fraud is a phony issue.

Based on U.S. Census Bureau data, 18.4 percent of black people did not have access to an automobile and 7.1 percent of white people did not have access to an automobile. That is a 2.5:1 ratio. Black people are 2.5 times more likely not to have a driver's license. The right to vote is a constitutional right, not a privilege. Voter identification reduces overall voting in the state that requires it. There is no evidence the reduction was the result of illegal voters not voting. The reduction in voting was the result of people without access to the polling place.

SENATOR BEERS:

The arguments you make against a photographic identification requirement to vote could be made against the act of registering to vote.

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MR. SIEGEL:

I do not need photographic identification to register to vote. Senate Bill 385 makes a new requirement.

SENATOR BEERS:

Voter registration has all the negative impacts you have mentioned on the act of voting. It requires premeditation. All your arguments against requiring photographic identification to vote are similar to the act of registering.

MR. SIEGEL:

Senate Bill 385 disallows me to vote if my driver's license expired yesterday.

SENATOR BEERS:

Will striking the word valid from S.B. 385 win your support?

MR. SIEGEL:

No, it will not. What about religious practices that forbid photographs to be taken? What do you say to Mennonites, Jehovah's Witnesses and Amish who cannot conform to these regulations? No photographic identification is required by federal regulations. The purpose of the Help America Vote Act of 2002 was to expand voting. Senate Bill 385 will reduce it by 3 percent. The ACLU will fight S.B. 385 in the courts if it is passed. Senate Bill 385 is the anti-civil rights bill of this Legislature.

SENATOR BEERS:

Staff provided National Conference of State Legislatures data ([Exhibit G](#)) to the Committee. Half the states in the United States require identification to vote. Three states are involved in litigation over these requirements.

MR. SIEGEL:

Georgia's legislation is dead.

SENATOR BEERS:

Does your disapproval of S.B. 385 come from needing identification to vote?

MR. SIEGEL:

We have no problem with identification requirements to vote. Our problem is with the requirement of photographic identification to vote.

SENATOR BEERS:

Why do you have a problem with photographic identification?

MR. SIEGEL:

Nonphotographic identification is established in United States election law. Requiring photographic identification is a new idea that is burdensome for people with disabilities and the elderly.

SENATOR HARDY:

You make a compelling argument on one side of the issue, and I do not disagree with you. Voting is a constitutional right, and we need to ensure every person has the opportunity to participate in the voting process. However, I am troubled by your interpretation of a burden. There is another side of the issue: protecting the integrity of the voting process. We need to verify people who vote are entitled to vote. You seem to indicate any burden is too great.

MR. SIEGEL:

Penalties for violating voting laws include felony, criminal sanctions and deportation. The integrity of the voting process is protected.

SENATOR HARDY:

I do not disagree. Sufficient penalties are in place for violators of voting laws. However, if we only accept your argument without balancing both sides, we have no way of establishing that someone voted illegally.

SENATOR MATHEWS:

I see in [Exhibit G](#) that only seven states require photographic identification.

SENATOR BEERS:

Nevada is not listed in [Exhibit G](#) among those states requiring identification but no photograph.

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CHAIR CEGAVSKE:

If there is nothing else to come before this Committee, I adjourn the Senate Committee on Legislative Operations and Elections at 4 p.m.

RESPECTFULLY SUBMITTED:

Brian Campolieti,
Committee Secretary

APPROVED BY:

Senator Barbara K. Cegavske, Chair

DATE: _____