

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

**Seventy-fourth Session
March 29, 2007**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara K. Cegavske at 1:43 p.m. on Thursday, March 29, 2007, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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 Dennis Nolan, Clark County Senatorial District No. 9
Assemblyman Joe Hardy, Assembly District No. 20

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Michelle L. Van Geel, Committee Policy Analyst
Josh Martinmaas, Committee Secretary

OTHERS PRESENT:

Jan Gilbert, Progressive Leadership Alliance of Nevada
Rocky Finseth, Carrara Nevada; Pharmaceutical Research and Manufacturers of America
Lawrence P. Matheis, Nevada State Medical Association

George Ross, HCA-Hospital Corporation of America; Sunrise Hospital and Medical Center
Larry Lomax, Registrar of Voters, Elections, Clark County
Alan Glover, Clerk/Recorder, Carson City
Matt Griffin, Deputy for Elections, Office of the Secretary of State
David K. Schumann, Nevada Committee for Full Statehood
John L. Wagner, The Burke Consortium
P.K. O'Neill, Chief, Records and Technology Division, Central Repository for Nevada Records of Criminal History, Department of Public Safety
Lisa Young, Administrative Services Officer, Records and Technology Division, Central Repository for Nevada Records of Criminal History, Department of Public Safety
Leslie A. Johnstone, Executive Officer, Board of the Public Employees' Benefits Program

CHAIR CEGAVSKE:

I call this meeting to order. We have four bills today, Senator Horsford has two and Senator Nolan has two. We will open the hearing on Senate Joint Resolution (S.J.R.) 6.

SENATE JOINT RESOLUTION 6: Urges Congress to reauthorize the State Children's Health Insurance Program to assure federal funding for the Nevada Check Up program. (BDR R-1313)

SENATOR STEVEN A. HORSFORD (Clark County Senatorial District No. 4):
Nevada Check Up is the State of Nevada's Children's Health Insurance Program. It provides low-cost, comprehensive health care coverage to low-income, uninsured children up to 18 years of age who are not covered by private insurance or Medicaid. This Program is designed for families who do not qualify for Medicaid and whose family income ranges from 100 percent to 200 percent of the federal poverty level. Since it was signed into law in 1997, State Children's Health Insurance Program (SCHIP) provides each state with federal funds to design a health insurance program for vulnerable children. Through Nevada Check Up, uninsured children in Nevada can see doctors when they are sick and get checkups and prescription medications they need. Healthy children are better prepared to learn in school and succeed in life. For this reason, I am asking for the Committee's consideration and passage of S.J.R. 6 urging Congress to reauthorize SCHIP. There are states across the country interested in ensuring this Program is maintained and funding secure.

Senate Committee on Legislative Operations and Elections
March 29, 2007
Page 3

SENATOR RAGGIO:

I support S.J.R. 6. What is the status now in Congress to restore this funding?

SENATOR HORSFORD:

The bill has been introduced. There are initial subcommittee level reviews of the reauthorization. We want to ensure that changes or modifications in the formula for funding protects growing states like Nevada with a large uninsured population. This will allow us to encourage our federal delegation.

ASSEMBLYMAN JOE HARDY (Assembly District No. 20):

I agree with the statements made by Senator Horsford.

JAN GILBERT (Progressive Leadership Alliance of Nevada):

We are pleased to see this resolution. Every year, we worry about the reduction of this fund. In Nevada, we get a 65-percent match from the federal government. It is great money for working families.

ROCKY FINSETH (Carrara Nevada; Pharmaceutical Research and Manufacturers of America):

We want to lend support to this resolution.

LAWRENCE P. MATHEIS (Nevada State Medical Association):

We support S.J.R. 6. Sometimes resolutions are meaningless gestures. This time, it is not. Congress needs the extra spur that the states want this program reauthorized. It is tempting for that pile of money to be transferred to other problems. Our Medicaid program is more restrictive than in most states. We have always treated children in emergency situations, but by being in this Program, they get all the benefits of Medicaid: screening, diagnosis, treatment and vaccinations. We would be disproportionately hurt as a state in meeting the needs of children if this program goes away or is underfunded.

GEORGE ROSS (HCA-Hospital Corporation of America; Sunrise Hospital and Medical Center):

I want to echo everything Senator Horsford said and the three people who preceded me.

Senate Committee on Legislative Operations and Elections
March 29, 2007
Page 4

CHAIR CEGAUSKE:

We will close the hearing on S.J.R. 6 and open the hearing on Senate Bill (S.B.) 401.

SENATE BILL 401: Eliminating the deadline for registering to vote in an election.
(BDR 24-248)

SENATOR HORSFORD:

I listened intently during the voter identification card legislation. We agree on one thing, we want integrity in our voting process. The bill I intended to bring would have provided for same-day registration of voters. There are currently six states—Idaho, Maine, Minnesota, New Hampshire, Wisconsin and Wyoming—that have Election Day registration. They have increased voter turnout in those states from 9-percentage to 14-percentage points. Nevada has a unique opportunity, especially with our new-found recognition as an early presidential caucus state, to increase voter participation in 2008. Based on some of the recommendations from the Carter-Baker Commission on Federal Election Reform, the government should take an active role in registering eligible individuals to vote. In an effort to make informed decisions to increase voter participation, access and protection—rather than in continuing to rely on unsubstantiated assumptions, election law scholars and policy makers should look at empirical data to weigh costs and benefits of election regulations and reform. I ask to amend S.B. 401 as a whole and replace the bill with the following amendment ([Exhibit C](#)).

I would like to require the Secretary of State, through county registrars in Nevada, to establish the Voter Access, Participation, and Protection Accountability Report. The report will collect, measure and analyze voter and election system data elements contained in [Exhibit C](#).

These components are important because they would help policy makers receive empirical data to make informed election law policies. I support the measure that will be introduced in the Assembly tomorrow by Assemblyman Tick Segerblom on same-day voter registration; I also want to put on the table issues we heard in this Committee about complaints with the voting process, allegations of the voting system and whether people are turned away from polls. If we are able to get this information from the Secretary of State, then Nevada will have the type of voter integrity process for its citizens.

We need a certain number of days following a primary or general election for county registrars to supply this information to the Secretary of State. The Secretary of State would then compile this information and submit a report to the Governor, Legislature and other interested parties. I struggled after the hearing on a couple of bills to understand where some of the proposals were going and believe we need to bring reforms forward that are being considered by this Legislature. I hope this will be among them.

SENATOR BEERS:

We do not have the race of registered voters in the database. We could not comply without retooling all the databases and getting the information from registered voters, but we have the rest of it. This would be good information to have.

SENATOR HORSFORD:

You are correct, I do not think the voter file includes information about race. I know in some of the other databases bumped up against the voter file, they may have demographic information. To the extent it is relevant, if we could have that recorded, it would be useful. If it is not yet available, the other information would get to some of the same issues.

SENATOR RAGGIO:

Since this is a new proposal, we need input from the agencies involved. There will be many fiscal notes at state and local levels. While I agree with Senator Horsford and Senator Beers this information would be helpful and useful, my questions are to the availability of it and the practicality of doing it within the time limits you are suggesting. Who would conduct this periodic audit of election procedures and practices, the Secretary of State?

SENATOR HORSFORD:

I gave an advance copy to the Secretary of State as I distributed it to the Committee. It is new information, so people will need time to look at it and answer some of the questions. The registrars address some of the information listed, but not in the form of a report that ensures accountability and resolution of issues.

Anecdotally, we hear of issues with voter registration being discarded or people being turned away from the polls. It would be interesting to collect that information and see if there are trends. If so, we would be able to see that in a

form. County registrars deal with these issues; they do not have to report on them currently.

On the issue of the audit, that is something being considered by the Help America Vote Act (HAVA); there are some other provisions other Legislators have introduced on having secretaries of states across the country do periodic audits and reviews.

SENATOR RAGGIO:
Are they going to send us the money to do that?

SENATOR HORSFORD:
We need to look at that. Regardless, our Secretary of State and the election process need to ensure we are in compliance with the laws we passed and procedures the counties have adopted.

SENATOR RAGGIO:
My purpose is not to pick this apart because, overall, this is valuable information. How practical is it to get an analysis of the number of ex-felons who meet the criteria? We had a lot of heartburn changing a long-existing law where people who committed felonies forfeited their civil rights, and we have done so with limited applicability. How would they collect that information?

SENATOR HORSFORD:
One of the recommendations of the Commission on Federal Election Reform was to do two things: streamline the registration process once individuals have their rights restored and do a better job of informing them of those rights. In Nevada, based on approved legislation, individuals who completed their sentence or paid restitution can have their rights restored. The process, however, is not streamlined. Again, that is anecdotal. We need some analysis from the Secretary of State and county clerks to see how many people are eligible and become registered.

SENATOR RAGGIO:
I am not in agreement we have problems in our state. Frankly, we owe kudos to the people in the election process, both on the state and county levels. We run a good election process in this state and are ahead of the curve as a result of implementation of our voting machines and the processes in place. This is not some indictment of our system. I would like an opportunity to hear from the

people who are going to be charged with this—this is a lot of data—how practical it is from a time standpoint and what is the likely cost.

SENATOR HORSFORD:

I completely agree. Our elections are conducted in a professional and efficient way that should make voters confident. I was pleased when we worked on getting the presidential caucus here in Nevada. The issues the Rules and Bylaws Committee discussed were how good the election laws and processes are in our state. Those states that had good reforms were progressive, had safeguards in place and were given extra consideration. Ultimately, that was one of the reasons Nevada was selected. This helps us report on that good work, to show where we are strong and where there might be weaknesses or challenges so we can focus in those places.

LARRY LOMAX (Registrar of Voters, Elections, Clark County):

I have had a chance to review [Exhibit C](#), and we are proud of what we do in Clark County; I have no problem participating with something like this. Quite a bit of this data we already collect. I would like to ask Senator Horsford if we could work with him and make adjustments to the request because we do not track race—we also do not track gender. If there are other databases in the state you can bump things up against, that might be possible, but we do not have those in the Election Department.

I want to go through and specify what we are talking about with some of these points, for example, the number of Election Day complaints and their resolution. I get complaints because they are voting in a gym and volleyballs are rolling through their legs or it is too hot or cold. I am sure this is not what the Senator seeks. We need to define the seriousness of complaints so we are addressing issues that really matter.

CHAIR CEGAUSKE:

You collect some of this information, what do you do with it now? Is it just for internal purposes?

MR. LOMAX:

Some are and some are not. For instance, all provisional voting data is already posted on the Internet—the number of people who voted provisionally, the number accepted and the number rejected. Those ballots are already available. We track absentee ballots. When you say the number of ballots rejected, I

assume we are talking about mail or absentee ballots because no electronic ballots are rejected. We track the data on the number and the reason why they were rejected.

CHAIR CEGAVSKE:
You provide it on a Website?

MR. LOMAX:
The absentee ballots we do not, but it would be no problem to do so.

SENATOR HORSFORD:
I would work with the county registrars, the Secretary of State and anyone else. This was a first attempt, and I want to bring some of these issues forward so I am not wed to any specific term or concept. It is about getting accountability for information that should be more accessible to our voters and Legislators.

CHAIR CEGAVSKE:
Mr. Lomax, I would like you to work with Senator Horsford and bring back something in which everybody could agree. I was trying to get to where I thought Senator Horsford was going.

ALAN GLOVER (Clerk/Recorder, Carson City):
I do not know how we would track the felons unless the prison system reports deaths or how many people are on parole. We do not know when somebody registers to vote if they are an ex-felon. In a lot of cases, because you grandfathered in all those people before 2002, the rest of them bring in their forms. That is an area you could review. The biggest area with a report is the number of absentee ballots not voted. People simply do not vote their ballots or they never come back; it is not that they come late. We report and keep track of all that. We could come up with a workable way to generate statistics that might be helpful. I am sure it would show what a good job Nevada does running elections.

CHAIR CEGAVSKE:
Regarding the question of cost, what would be your estimation? Would it be more employees to put the information in or is it something you already do that you could have the numbers put in the additional areas?

MR. GLOVER:

The biggest cost might be to the Secretary of State's Office to compile all this in some format and present it. They may need four or five people to handle this. On our end, it would take additional time, but we could probably handle it.

CHAIR CEGAUSKE:

Senator Horsford, were you thinking of each county doing it separately or from the Secretary of State's Office? Would all the counties give their information to the Secretary of State, and he would compile it and put it on a Website?

SENATOR HORSFORD:

That is correct, along with any analysis the Secretary of State would need to do based on the information from individual counties.

CHAIR CEGAUSKE:

If there was an issue how it was being given to him?

SENATOR HORSFORD:

Correct, but the hard work is mostly done at the county level. They should be able to retrieve most of this information.

CHAIR CEGAUSKE:

I am trying to get a handle on where you are going.

MATT GRIFFIN (Deputy for Elections, Office of the Secretary of State):

I agree with Mr. Lomax and Mr. Glover's assessments. The Secretary of State's Office would be more than willing to work with Senator Horsford. Without getting into specifics, some concerns would be whenever you make information available, that information lends itself to manipulation. We will want to keep a close eye on what information is necessary to do the analysis.

As far as cost, I cannot say with certainty; we have more information in our office regarding the statewide voter registration list of which the public just got access, and it is a bottom-up system. I will talk with our information technology department. Perhaps that program could lend assistance in developing a program for this legislation since it is the same concept. Having this information, whether you are doing a great job or not, can only lend itself to improvement. It would allow our office to assess what we are doing well and where we can do better.

MS. GILBERT:

I am on the Secretary of State's Advisory Committee on HAVA. We are meeting in two weeks, and this would be an appropriate issue. We hear of voter skepticism and hearsay, and this will dispel myths of voter intimidation. Hopefully, we will find it is not happening. People are concerned though, and this would be an outstanding resource for Legislators and the Secretary of State to make our voting system the best we can.

As far as ex-felons, I have worked on this issue for many years. Probation is now giving out forms to ex-felons. They could provide data on how many people are eligible. Of course, then the Secretary of State receives those forms and would know how many people are following through and registering. It would be helpful to know how we are helping people get that right to vote back, especially people who have paid their debt and comply with our way of restoration of voting rights. I urge support of this bill and would like to help however I can.

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

I am glad we withdrew the HAVA bill. Any kind of process that leads to same-day voting will destroy credibility of our election system. Same-day voting will lead to multiple votes. A person will vote in one precinct and then another. Some places had to work to get rid of that kind of stuff. Just the thought we would consider same-day voting sent a chill down my spine. That is the fastest way to have a corrupt voting system and would not benefit American citizens. It would benefit those who are not American citizens; it would help illegals vote.

CHAIR CEGAUSKE:

Mr. Schumann, did you get the amendments?

MR. SCHUMANN:

Yes, I looked at the amendment and thank God we are just studying it. Senator Horsford mentioned that Assemblyman Tick Segerblom is introducing a bill for same-day voting. Is this going under another number? What is happening?

CHAIR CEGAUSKE:

The Assembly has a bill dealing with same-day voting. It will be coming from the other House. This Senate bill has a new context to it.

Senate Committee on Legislative Operations and Elections
March 29, 2007
Page 11

MR. SCHUMANN:

I am glad to hear it is dead.

JOHN L. WAGNER (The Burke Consortium):

I was not sure same-day voting was dead. Is that taken out or is it still in?

CHAIR CEGAVSKE:

Senate Bill 401 is now different. Senator Horsford is making a proposal to amend the entire bill with the language he handed out. He wants to delete S.B. 401 as it was registered and amend this information into it.

MR. WAGNER:

I always have a question when it comes to race. To me, there is only one race and that is the human race. We are trying to become a color-blind society, but every time you turn around, someone has certain percentages. We are all one people in the United States of America, and that is why I do not like the race thing.

SENATOR CEGAVSKE:

We will close the hearing on S.B. 401 and open the hearing on S.B. 389.

SENATE BILL 389: Makes various changes to provisions relating to public safety. (BDR 14-1348)

SENATOR DENNIS NOLAN (Clark County Senatorial District No. 9):

Senate Bill 389 has two basic purposes. The first is to correct a growing problem within the statutes regarding background checks for individuals who work directly with children. In 1997, I introduced a bill which created a fund within the Criminal History Records Repository, which at the time, would have taken donations and contributions. It helped nonprofit organizations that work directly with children offset the cost of background checks. The cost at the time, and it is still probably similar, is somewhere close to \$50. Testimony in committees over a number of years indicated that cost has a chilling effect on some organizations to do background checks. We established this account and opened it with \$25,000 from contributions from different corporate sources. Since that time, the state has determined the merit of the account and found a revenue stream within the Criminal Repository a couple of sessions ago. I applaud the Criminal Repository and the Legislature for that.

We have problems with—let me refer you to page 2, section 1, subsection 3—where it says "The Central Repository shall not charge such a fee" and then in paragraph (b), "For information contained in a record of registration concerning an employee, prospective employee, a volunteer or prospective volunteer." The intent of this was to deal with nonprofit organizations and not employees. We have been told there are a number of businesses that have prospective employees who are going to be paid personnel attempting to access this account which has limited funds. The language would strike that and talk specifically about a volunteer or prospective volunteer who will work directly with children.

In the process of introducing this bill, it has been brought to our attention there are large organizations, in particular hospitals, that, even if we strike this language, have corps of volunteers whose primary purpose is not working with children but volunteering within the hospital. The hospital is required to have background checks on these people. Some of these organizations are going to see this as an avenue to supplant what they would otherwise have to do. Mr. O'Neill and I were talking about some recently proposed legislation so we can limit this to nonprofit—Pop Warner, Little League, those types of organizations that work with kids. It is imperative to know who is working with the kids.

SENATOR WIENER:

You raised an interesting scenario about the hospital. I do not know if hospitals still allow the volunteer cadre to work in different wards or specialty sections of the hospital. I am sure some volunteers work with children. Are the volunteers who work directly with children or the entire volunteer team taking advantage of this? It would be justifiable if they are working in neonatal or something, it is a direct connection with children. Are they not to be included?

SENATOR NOLAN:

The hospitals will do background checks on those people—every hospital does. You may have a corps of 20 people in one hospital. Southern Nevada will very shortly have a dozen hospitals. If all of those people were to use this program, that the hospital is otherwise currently funding, it would bankrupt the account. Our intention is to restrict the account to those organizations which specifically work with children. Hospitals, of course, work with all kinds of people—yes, they work with children, and yes, they should have background checks; that is

not the type of nonprofit organization we thought should have access to this account.

SENATOR WIENER:

Perhaps something like "who would otherwise be required to do background checks" or "those organizations that would already be required to do it in the purview of other operations," could be part of it too.

P.K. O'NEILL (Chief, Records and Technology Division, Central Repository for Nevada Records of Criminal History, Department of Public Safety):

Reading previous testimony given in the 2005 Legislative Session, the intent for the Children's Trust Account was to address the Boy Scouts, Girl Scouts, Pop Warner leagues, American Youth Soccer Organization (AYSO) and Babe Ruth baseball clubs that are probably 75-percent to 90-percent volunteer organizations and have no income. Any money they have is immediately turned back to take care of a field or provide a uniform to a player. Talking with Senator Nolan and other Legislators, they agree this is directed towards this type of athletic and youth group educational program. Hospital volunteers typically work with children one day and somebody else the next. They are not in a specific program within that hospital dealing with education or youth activities compared to what AYSO, Babe Ruth, Pop Warner football league and the Boys and Girls Clubs of America do full time. Some of the hospitals that have come to light now are taking advantage considering the incomes or fees they charge.

CHAIR CEGAVSKE:

The amendment we were just given ([Exhibit D](#)) is from both of you?

SENATOR NOLAN:

In some recent discussions on the proposal, we would like to strike the language under section 1 of the amendment, [Exhibit D](#), subsection 4 that says, "Any agency which utilizes a Livescan electronic fingerprinting machine" It creates problems for law enforcement.

CHAIR CEGAVSKE:

On the first page of [Exhibit D](#), you want to take out all of subsection 4?

SENATOR NOLAN:
Yes.

CHAIR CEGAVSKE:
That is the one I was looking at that says "shall waive its administrative fees for the service if the agency receives funding."

SENATOR NOLAN:
The subsection was problematic for law enforcement agencies.

CHAIR CEGAVSKE:
To determine who does and who does not?

SENATOR NOLAN:
That is correct.

CHAIR CEGAVSKE:
Your bill has two parts. The first part is the language change and the second part is the study. Here is our dilemma, this bill is subject to bill passage deadlines. We could act as a Committee on the first part of your bill and then roll section 2 into a study because we have not determined which studies we are doing yet. We are still contemplating the studies. We could roll section 2 into another bill draft request and see if it is selected for a study.

SENATOR NOLAN:
That would be fine with us.

SENATOR BEERS:
I am looking at Senator Nolan's amendment and trying to pin down the criteria under *Nevada Revised Statute* 179A.310, subsection 5, paragraph (b). This is replacing to whom we provide free checks?

SENATOR NOLAN:
That was the section of the statute we copied and distributed ([Exhibit E](#)).

SENATOR BEERS:
How would this work? Would this put in which groups are eligible?

Senate Committee on Legislative Operations and Elections
March 29, 2007
Page 15

SENATOR NOLAN:

They created some qualifications in the regulations for the Children's Trust Account as to which groups would be doing it.

SENATOR BEERS:

Has the Trust Account received more contributions since its creation?

SENATOR NOLAN:

Not since its inception. It was opened with about \$20,000. That money was utilized, and in the 2001 Legislative Session, the Legislature dedicated a small portion of its General Fund appropriation, \$25,000, back to the account.

SENATOR BEERS:

Is it still living off of what is left of that \$25,000?

LISA YOUNG (Administrative Services Officer, Records and Technology Division, Central Repository for Nevada Records of Criminal History, Department of Public Safety):

Currently the funding source is \$25,000 of General Fund money. Organizations identified as 501(c)(3)s, working primarily with children under the age of 16, apply for a grant and then we apply those grants. It is our understanding in the upcoming biennium when the \$25,000 runs out, the grants will no longer exist. In the 2006-2007 biennium, any excess is being paid by the Criminal History Repository's reserve.

SENATOR BEERS:

Is the grant being applied specifically to provide these checks? Is that the nature of the grant?

Ms. YOUNG:

That is correct, it is for the Federal Bureau of Investigation (FBI) portion. The Repository is absorbing the state fee.

CHAIR CEGAVSKE:

The only amendment you want to section 1 is subsection 3, paragraph (b) "For any organization that meets the criteria under NRS 179A.310(5)(b)."

SENATOR NOLAN:

Yes, that is it for section 1.

CHAIR CEGAVSKE:

I want to clarify that we have addressed section 1. I may ask staff to make sure because now we are going to separate section 2 for the study.

SENATOR NOLAN:

With regard to the amendment in [Exhibit D](#), on the third page at the bottom it says "This act becomes effective upon passage and approval." That would be pertinent to the first part of the bill we just discussed.

CHAIR CEGAVSKE:

Okay, those would be the two then. The other issue is with the study. Do you want to propose it at this time and have it discussed or do you want to wait and do it as a separate bill when we separate them?

SENATOR NOLAN:

I will leave that to your discretion. I could give you a brief introduction of the purpose of the study and why we are requesting it.

CHAIR CEGAVSKE:

You should do that now since we have you here. When we go into the studies later, we will have them all together.

SENATOR NOLAN:

It is a simple explanation. When accessing criminal history through fingerprints and the Criminal Repository, there are approximately 30 mechanisms by which different organizations are required by statute to apply for background checks ([Exhibit F](#))—everything from concealed weapons, Chinese medicine, child care facilities, certified public accounts, Department of Motor Vehicles and funeral facilities do background checks.

With regard to nonprofit organizations and volunteer groups, there are about four or five ways to access criminal records through the Criminal Repository. With each of those different methods, those organizations can only receive certain information. In some cases, they can only receive information about sex offenses that are related. Then the Criminal Repository has to determine which information they can provide. In other instances, they can provide a complete picture of the person's background.

The request for the study is to untangle what I have seen time and again in the last ten years in the Legislature and on the Judiciary Committee. There are layers upon layers of statutes in this area dealing with what we can provide people, who gets what information and under what circumstances. We have built a real Rube Goldberg device.

Nonprofit organizations can only access the account we just talked about by statute information regarding sex offenses. If you are a nonprofit organization and want to get the whole picture, which the Criminal Repository has sitting in front of them, once they do an FBI background check, you cannot access this same account to get that. You can only access this account if you want information on sexual offenses. If you are hiring a driver to drive kids and you want to know about their criminal background, you cannot access this section of the statute to get that information. That is just one example of how these parts of the statutes are screwed up. We should take time during the interim because I have not participated in one legislative committee that has been able to unravel this during the session.

CHAIR CEGAVSKE:

To clarify, the amendment in [Exhibit D](#), section 1, subsection 3, paragraph (b), would just be that one line, not subsection 4, just paragraph (b) of subsection 3. Then, in section 3, the one line, and then deleting section 2.

SENATOR BEERS:

Then the effective date as well.

CHAIR CEGAVSKE:

That is section 3.

SENATOR BEERS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 389.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR BEERS MOVED TO INITIATE A BILL DRAFT REQUEST FOR SECTION 2 OF S.B. 389.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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That will go into our studied bills. Senator Nolan, you also know this does require a two-thirds vote because of the fees.

SENATOR NOLAN:
Yes.

SENATOR BEERS:
I am curious on the two-thirds; I am not tracking that. It seems to me this is completely optional whether an organization wants to get a criminal background check. Thus, we are not changing the fee in any way.

BRENDA J. ERDOES (Legislative Counsel):
The manner in which we determine the two-thirds is pursuant to the *Constitution of the State of Nevada* whether it could generate additional revenue. We thought this would generate additional revenue because you are collecting from additional entities you were not collecting from before. You are narrowing the focus for whom you are collecting the fee.

SENATOR BEERS:
I wonder if that is still true with the amendment. These people are not compelled to have this check. It has been offered as a free service so they have been taking advantage. But now, presumably, they would no longer take advantage.

Ms. ERDOES:
As I understand it, the part that is coming out is the exemption for employees of nonprofit organizations. That fee was waived and now it will be charged. It is true, they do not have to get the background checks, but the bill and the two-thirds determination is based on the way the law reads whether it would bring additional income.

SENATOR BEERS:

If the group we restricted away was required to have criminal background checks, we would increase state revenue. In this case, it is optional. They probably did not get these checks done prior to them being made available.

SENATOR NOLAN:

It sounds more of a technical violation than a practical one. It benefits the safety and well-being of children. I have a feeling the other side of the Legislative Building might support us.

MR. O'NEILL:

Just for clarification, up until July 1, 2006, we were charging these entities for background checks if they desired them. On July 1, the new statute, NRS 179A.140, went into effect that waives fees for potential employees, employees, potential volunteers and volunteers of nonprofit 501(c)(3) entities.

SENATOR BEERS:

Did they engage these background checks before this law was enacted on July 1, 2006, or are they new customers who came onboard when this service was first offered?

MR. O'NEILL:

They were customers prior to July 1. Some hospitals still send in background checks, required or requested, on potential employees, employees, potential volunteers and volunteers.

SENATOR BEERS:

Were they compelled by law to do so?

MR. O'NEILL:

That is an interesting question. A nurse is required to get a background check to get her nursing license.

SENATOR NOLAN:

I do not think the volunteers in the hospitals were required. It might be more of a practical, risk management practice, but looking at the various categories of people who are required to have background checks, I do not see hospital volunteers included.

MS. ERDOES:

Constitutional provision wording in Article 4, section 18, of the Nevada Constitution is very broad. It says any change that would generate any increase, the way it has been interpreted thus far is pretty consistent. For example, if you were going to raise the fee for a license for a licensing board from \$200 to \$300, the same argument could be made. You do not have to get a license, unless you want to practice whatever it is. Those requirements are not always mandatory, but if it is likely to generate revenue, then we have been putting a two-thirds requirement to protect the legislation because if it were to get passed without that and then challenged, the bottom line is it would be subject to being held unconstitutional.

CHAIR CEGAUSKE:

We will close the hearing on S.B. 389 and open the hearing on S.B. 391.

SENATE BILL 391: Revises provisions governing the participation of Legislators in the Public Employees' Benefits Program. (BDR 23-289)

SENATOR DENNIS NOLAN (Clark County Senatorial District No. 9):

We made an effort to introduce this at the tail end of last session at the request of former Assemblyman Robert M. Sader and Assemblywoman Courtenay C. Swain. The genesis of the bill was after their tenure with the Legislature. They continued to receive Public Employees' Retirement System benefits regarding health care insurance. They paid the premiums and out-of-pocket expenses without a match for almost eight to ten years. They received a call from the Public Employees' Benefit Program (PEBP) and were told they were cutting them off. Assemblyman Sader found no statutory requirement for PEBP to maintain a Legislator or remove them. It seemed arbitrary. When I spoke to Assemblyman Sader, it seemed the right thing to do in continuing to allow those Legislators who retire after serving in the public to have these benefits as long as they paid the premiums.

SENATOR RAGGIO:

What was the reason they could not participate? The law states a participating Legislator who retires from the service of the state may retain his membership. It did not require eight years of service.

MS. ERDOES:

No it did not. I think it said requires. The issue brought to me by PEBP was they were extended on Consolidated Omnibus Budget Reconciliation Act (COBRA); someone then found out COBRA did not go that far.

SENATOR RAGGIO:

The existing language says a participating Legislator who retires from the service of the state may retain his membership.

MS. ERDOES:

At least one of them did not have enough years to retire from the Legislators' Retirement System (LRS).

LESLIE A. JOHNSTONE (Executive Officer, Board of the Public Employees' Benefits Program):

Regarding the section that provides for legislative coverage eligibility if they retire or have eight years of service, the PEBP definition for retirement is whether they are drawing retirement funds from the LRS, PERS or the University system. On how we implement retiree benefits, the Legislator who is not drawing from a retirement system would not be eligible as a retiree. The other criteria was eight years of service. The COBRA benefits extend for 18 months after termination and do not have life beyond 18 months.

SENATOR RAGGIO:

That is a narrow interpretation of retirees. If it needs clarification, I certainly endorse the bill. Legislators are paying their own premiums, we do not get subsidy of any kind. Once their term expires, anyone who has served in the legislative process should have the opportunity to continue to pay premiums and receive benefits.

MS. JOHNSTONE:

Active Legislators pay full premiums, but the sections that provide for retired Legislators, including those who have eight years or not, would be in the consideration of a retiree subsidy the state provides. Retired Legislators are allocated a state subsidy, but an active Legislator pays 100 percent of the cost.

If this were to pass, we do not have any provision for state subsidy with less than five years of service. If a Legislator served one term in the Assembly and had two years, they would be paying the full cost. If they had served for at

least five years, then they would be eligible for the five-year subsidy—the same schedule that applies to employees.

SENATOR RAGGIO:

I am not sure what you are suggesting. Should there be some differentiation?

MS. JOHNSTONE:

I am not suggesting anything, I just wanted to point out that some would receive a subsidy because of years of service and others would not.

SENATOR RAGGIO:

As it exists right now?

MS. JOHNSTONE:

As it would be implemented here.

SENATOR RAGGIO:

If you have more than eight years of service, what is the situation?

MS. JOHNSTONE:

They receive eight years' subsidy, which is approximately 35 percent to 37 percent.

SENATOR RAGGIO:

This does not change that?

MS. JOHNSTONE:

This would not change that. This would only change the eligibility to continue as a retiree.

CHAIR CEGAVSKE:

It is doing what we want it to do, but is it not causing any concerns?

MS. JOHNSTONE:

No. I just wanted to make sure the Committee understood the implications on the subsidy.

SENATOR NOLAN:

I have been in the Legislature over ten years and have never accepted the health care benefits. Like many Legislators, I have my own private health care insurance. This would not benefit me now, and I am not looking forward to an early retirement.

CHAIR CEGAVSKE:

We will close the hearing on S.B. 391 and start the work session on S.B. 210.

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

We have an amendment from Senator Beers on page 2 of the handout ([Exhibit G](#)). On the third page, we have a proposal to amend S.B. 210 submitted by Dan Musgrove. After talking to legal staff we asked him to look for a bill in the Committee on Government Affairs on this issue. It would fit better and be better suited in Government Affairs than in this Committee for a full hearing on what he wants. I will let Senator Beers talk about his amendment to this bill. It is about proposing the federal rate reimbursement.

SENATOR BEERS:

The <<http://www.GSA.gov>> Website shows their standard rates apply statewide except for Washoe, Clark or Douglas Counties. In Las Vegas, from October to April, the maximum rate is \$178 a day. In Las Vegas from May through August, it is \$164 a day. It is seasonally adjusted in Las Vegas and Washoe County. In Washoe County, it ranges from \$150 to \$180 for daily lodging and meals. Outside those areas, it is \$109, the standard rate for regular places that do not have local overrides. They keep up on this and do the studies. Our state could avoid doing studies if we incorporated their work into our process.

MS. ERDOES:

As to the federal provision, there is a 50-mile rule. This is set up as it relates to the Internal Revenue Service (IRS) for what would be reported as income. The manner in which the 50-mile rule applies is you would not be allowed per diem in travel if the place you traveled to was less than 50 miles from your home base. That does not mean the home you live in, it means where your work is based. If I have an employee who lives in Dayton and he works here in

Carson City, when he travels to the airport in Reno, we pay him the miles from Carson City to Reno, not Dayton to Reno. Additionally, if your home base is closer than 50 miles from where you are required to go, then you would not be paid if you go strictly with those rules; you would not be paid per diem, meals and lodging. Maybe there is a hybrid if you want to go by the rates and not the rules that apply, but those rules would apply IRS-wise to the employee.

SENATOR BEERS:

The distance rule is based on your work location. If you lived in Reno and worked in Carson City, you would not be eligible for per diem.

CHAIR CEGAVSKE:

Correct, because it is not more than 50 miles.

SENATOR BEERS:

What is our policy now? Do we pay the per diem rate in the statute to people who work in Carson City and live in Reno?

MS. ERDOES:

I do not know the practice of the cities and counties because it is not in the statute. I can tell you the Legislative Counsel Bureau goes along with the federal rules because otherwise they would have to report on W-2 forms to the IRS anything they paid outside of that as income.

SENATOR RAGGIO:

Senator Beers, what if we leave the bill essentially as it is but provide that the State Board of Examiners, in adjusting the rates, give nonbinding consideration to the federal reimbursement rates. Does this not apply to travel? Is there a federal reimbursement rate for travel?

MS. ERDOES:

I think this is the same rate.

SENATOR BEERS:

There is an IRS rate for travel; I do not think there is a General Services Administration rate for travel. That is specifically for mileage reimbursement on your car as opposed to having to fly to your destination.

SENATOR RAGGIO:

I am trying to not put a lot of restraint here. My concern is we have not been able to reimburse state employees on a reasonable basis. Many have had to pay the expenses out-of-pocket. My proposal is to pass the bill as is with an amendment that would require the Board to consider the federal reimbursement rate as a guideline but not be bound by it.

MS. ERDOES:

We can draft it to consider the rates but not be bound by the guidelines.

SENATOR RAGGIO:

Senator Beers, is that all right with you? I make the motion that we amend the bill requiring the State Board of Examiners to give consideration to the federal reimbursement rate.

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 210.

SENATOR HORSFORD SECONDED THE MOTION

THE MOTION PASSED UNANIMOUSLY

* * * * *

CHAIR CEGAVSKE:

We will close the work session 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)

Page 5 of [Exhibit G](#) requires a voter to present current and valid photographic identification (ID) when voting. The amendment is on page 2, line 7, deleting "and which is not invalid or expired." That was Dr. Richard Siegel's comment in his testimony. I agree with him and think this is a valid point. It is a picture ID; if expired, it is still a picture that identifies you.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 385.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS HORSFORD, MATHEWS AND WIENER VOTED NO.)

* * * * *

SENATOR MATHEWS:

I am still objecting to the picture; the photo is what gets me. I do not have any problem with any of the ID.

CHAIR CEGAVSKE:

We will close the hearing on S.B. 385 and open the hearing on S.B. 367.

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

This is Senator Wiener's bill. Senator Wiener, there was an amendment offered by Leo Drozdoff, Administrator, Division of Environmental Protection, Department of Conservation and Natural Resources on page 6 of Exhibit G. Did you accept that? Was that okay with you?

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 367.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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SENATOR BEERS MOVED DO PASS S.B. 391.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Senate Committee on Legislative Operations and Elections
March 29, 2007
Page 27

CHAIR CEGAVSKE:
This meeting is adjourned at 3:31 p.m.

RESPECTFULLY SUBMITTED:

Josh Martinmaas,
Committee Secretary

APPROVED BY:

Senator Barbara K. Cegavske, Chair

DATE: _____