

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

**Seventy-sixth Session
April 14, 2011**

The Senate Committee on Legislative Operations and Elections was called to order by Chair David R. Parks at 4:22 p.m. on Thursday, April 14, 2011, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Moises (Mo) Denis, Vice Chair
Senator Steven A. Horsford
Senator Barbara K. Cegavske
Senator James A. Settelmeyer

GUEST LEGISLATORS PRESENT:

Senator Joseph (Joe) P. Hardy, Clark County Senatorial District No. 12

STAFF MEMBERS PRESENT:

Carol Stonefield, Policy Analyst
Eileen O'Grady, Counsel
Kevin C. Powers, Senate Legal Counsel and Bill Drafting Adviser, Legal Division
Michelle Ené, Committee Secretary

OTHERS PRESENT:

Rusty McAllister, Professional Fire Fighters of Nevada
Ronald Dreher, Peace Officers Research Association of Nevada
Scott Gilles, Deputy for Elections, Office of the Secretary of State
Cadence Matijevich, Legislative Relations Program Manager, Office of the City Manager, City of Reno
Matthew M. Griffin, Pew Center on the States
Jesse A. Wadhams, Pew Center on the States
Caren Jenkins, Executive Director, Commission on Ethics

Senate Committee on Legislative Operations and Elections
April 14, 2011
Page 2

CHAIR PARKS:

We will open up the work session on Senate Bill (S.B.) 8.

SENATE BILL 8: Revises provisions governing payment for unused sick leave upon the retirement, termination in certain circumstances or death of certain state employees. (BDR 23-425)

CAROL STONEFIELD (Policy Analyst):

Senate Bill 8 was sponsored by the Senate Committee on Legislative Operations and Elections on behalf of the Department of Personnel. I have provided a work session document ([Exhibit C](#)) on this bill.

No amendments were offered. According to testimony from the Department of Personnel, the other two options have never been implemented because the accounting system cannot handle them. The bill brings the statutes in line with practice. The other two options raise a question of carrying balances forward to future biennia.

Some Committee members raised questions regarding computer systems including costs to handle the Public Employees' Benefits Program (PEBP) or Public Employees' Retirement System (PERS) payments. There were questions on tax consequences of various payment possibilities and whether payments to PEBP or PERS could be structured in to tax-advantaged accounts.

One option is to ask the Department of Personnel, PEBP and PERS to further investigate this issue.

CHAIR PARKS:

One issue that remains unanswered is whether there could be some tax deferral or a reduction in tax for the benefit of a terminated employee. Even though the present computer system does not allow or permit the reductions to do anything other than to give a direct payment, I am reluctant to remove the language from statute. I like the idea of directing a letter to the three organizations seeking further input on their part as to trying to resolve this, as well as finding out what IRS consequences may be available or advantageous for terminated employees.

SENATOR DENIS:

I would say we pass the bill with a letter of intent.

CHAIR PARKS:

My recommendation would be to not pass the bill but simply do the letters.

SENATOR SETTELMAYER:

Since this bill does have a fiscal effect on the State, we can send it to the Senate Committee on Finance. We can consider a do pass and refer it to Finance. In the meantime, direct the letters to see if we can find some resolution to your questions as the other options have not been used.

CHAIR PARKS:

You are correct. I am hesitant to take it out of statute if there is a potential opportunity for former employees to use the funds to pay their health insurance or to put it toward PERS.

SENATOR DENIS:

They can get the lump sum and use it for insurance or make a payment to buy years.

CHAIR PARKS:

That is correct. Currently, the only option is to take a lump-sum payout and then direct it toward health insurance coverage or toward the purchase of additional retirement credits.

Once the funds are written to employees, they are obligated to pay whatever taxes there would be on the receipt of those funds. The hope is we could avoid tax consequences by using the provisions in the bill to pay for the cost of extended health insurance coverage.

SENATOR DENIS:

If we were to remove the language from statute, it would preclude the former employee of seeking an advanced payment for health insurance coverage. Instead of taking receipt of the money, it is directed toward paying for somebody's insurance over a long period of time, more than one year.

SENATOR SETTELMAYER MOVED TO DO PASS AND REREFER S.B. 8 TO THE SENATE COMMITTEE ON FINANCE WITH LETTERS FROM SENATOR PARKS.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR PARKS:

We will move on to S.B. 98.

SENATE BILL 98: Revises provisions relating to collective bargaining between local governments and employee organizations. (BDR 23-415)

MS. STONEFIELD:

Senate Bill 98 was sponsored by Senator Joseph P. Hardy. I have provided a work session document ([Exhibit D](#)) on this bill.

On page 2 of the work session document, [Exhibit D](#), is a mock-up amendment from Senator Hardy.

SENATOR SETTELMAYER:

If you go to mediation and then go to arbitration, will the arbitrator have the information from the mediation?

SENATOR JOSEPH (JOE) P. HARDY (Clark County Senatorial District No. 12):

It is my intention for the process to be totally transparent and continual. I do not want surprises brought out at any point in the process. If there is not anything agreed upon, then this would be the time to make a change. On page 5 of the mock-up, section 2, subsection 1, lines 32 and 33, if I do not cross out the blue language "and the parties participated in mediation pursuant to NRS 288.190," I suggest we strike that language, making it consistent with the "may" throughout the bill. This will be consistent with the amendment as intended.

SENATOR SETTELMAYER:

Would the results of the mediation be available to the arbitrator?

SENATOR HARDY:

I do not know for sure. That is my full intention.

SENATOR SETTELMAYER:

For legislative intent, it is my intent to have information provided to the arbitrator so he or she has a better picture of what is going on.

SENATOR HARDY:

Yes. I agree.

CHAIR PARKS:

We had other individuals who testified on Tuesday, April 12, on this bill. Have you shared and discussed your mock-up amendment with them?

SENATOR HARDY:

Yes. That is where the strikeout came from.

CHAIR PARKS:

I would like to ask other participants from Tuesday's hearing to please come forward and provide input.

RUSTY MCALLISTER (Professional Fire Fighters of Nevada):

We just had an opportunity to look at the mock-up amendment today. We support the additional amendment added regarding reporting. Many of the aspects of reporting are already in statute from last Session.

The one question we did have with regard to the mock-up was on page 1, section 0.5, subsection 1, lines 8 through 12, which states:

The estimated total cost of the agreement, including, without limitation, the estimated total cost of any deferred compensation that will be paid pursuant to the agreement to local government employees employed by the local government upon the retirement of the local government employees; and

We are not sure what the definition of "deferred compensation" is. On the surface it brings to mind a 401(k) or a 457 retirement plan.

I spoke with Mr. Samuel McMullen, Las Vegas Chamber of Commerce. He indicated to me, his process of thought as well as that of Mr. Steve Hill,

Las Vegas Chamber of Commerce, was this: if the local government employer agreed through the negotiation process to pay the portion of any increase on behalf of the employees to the Public Employees' Retirement System, it would need to be reported in the report given by the Chief Executive Officer. We do not have a problem with that. We want to make sure that was the clarification on there.

We are not sure what a report on deferred compensation is. For example, if it is for the year of the negotiated contract and the employer agreed to, through the negotiation process, pick up the portion of the PERS increase on behalf of the employees, it would need to be reported in a report so it is transparent. We do not have a problem if that is the intent of the bill.

RONALD DREHER (Peace Officers Research Association of Nevada):

We do not have a problem with the amendment. With reference to what Senator Settelmeyer asked, do you want to know if the result of the mediator will go forward to an arbitrator? Yes, it can. Usually, you make an agreement when you go to mediation with management whether or not the results of mediation are going to be disclosed to the arbitrator. I have never had a problem with this happening. It is usually the other side who wants the results off the record so the mediator can mediate and not have it go to the arbitrator. But you can do it.

Making it mandatory is also a possibility. Sometimes the mediators will have a problem with being mandated to do one thing or another because they think it hurts the mediation process. If both parties agree, it is not a problem. That is the dilemma you are in. It is like the "may" or "must." It depends on the circumstances of what you are trying to accomplish when you are getting a contract/interest dispute resolved.

SENATOR SETTELMAYER:

I appreciate your answer. It has merit as long as it is passed along. If it is not passed along, it is just an additional step. I say this from my own experience with mediation and arbitration from a lawsuit standpoint.

If I had my way, it would be under the Open Meeting Law. I prefer that form of transparency, but I do not believe it is in this case.

Senate Committee on Legislative Operations and Elections
April 14, 2011
Page 7

CHAIR PARKS:

We have a motion to approve Proposed Amendment 6273 to S.B. 98 with changes on pages 5 and 7.

SENATOR HORSFORD:

I would like to thank Senator Hardy for bringing these types of reasonable, necessary, pragmatic efforts. Sometimes collective bargaining bills get lost. We approved some last Session. We do need to make adjustments. There are some reforms I will support. This is one of them.

SENATOR DENIS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 98.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR PARKS:

We will move on to S.B. 133.

[SENATE BILL 133](#): Revises provisions governing initiative petitions. (BDR 24-1)

MS. STONEFIELD:

Senate Bill 133 was sponsored by Senator Dean A. Rhoads. Senate Bill 133 was heard in conjunction with S.B. 241. I have provided a work session document ([Exhibit E](#)) on S.B. 133.

[SENATE BILL 241](#): Revises provisions relating to initiative petitions. (BDR 24-1101)

There is an amendment to this bill from Senator Rhoads, [Exhibit E](#), on page 2 of the work session document.

Senate Committee on Legislative Operations and Elections
April 14, 2011
Page 8

SENATOR SETTELMAYER:

I am in support of the concept of this bill. I will make a motion to amend and do pass.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 133.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR PARKS:

We will move on to S.B. 170.

[SENATE BILL 170](#): Revises provisions governing petitions for initiative or referendum. (BDR 24-537)

MS. STONEFIELD:

Senate Bill 170 was sponsored by Senator Steven A. Horsford and Assemblyman John Ocegura. I have provided a work session document ([Exhibit F](#)) on this bill.

There is an amendment to this bill from the Secretary of State with review and approval from the Clark County Registrar of Voters on page 2 of the work session document, [Exhibit F](#).

SENATOR SETTELMAYER:

I agree with Danny Thompson, Nevada State AFL-CIO. This will only lead to gamesmanship within the process. I do not support this bill.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED S.B. 170.

SENATOR DENIS SECONDED THE MOTION.

Senate Committee on Legislative Operations and Elections
April 14, 2011
Page 9

THE MOTION CARRIED. (SENATORS CEGAVSKE AND SETTELMAYER
VOTED NO.)

* * * * *

CHAIR PARKS:
We will move on to S.B. 188.

SENATE BILL 188: Revises provisions relating to correctional officers.
(BDR 23-699)

MS. STONEFIELD:
Senate Bill 188 was sponsored by Senator James A. Settelmeyer. I have
provided a work session document ([Exhibit G](#)) on this bill.

There is an amendment to this bill from Ronald Bratsch, Corrections North
Chapter President, American Federation of State, County and Municipal
Employees, Local 4041 starting on page 2 of the work session document,
[Exhibit G](#).

There is an unsolicited fiscal note from the Department of Corrections on page 7
of [Exhibit G](#) that projects a cost of future biennia of \$21,964,250. As an
update to this bill, today the Senate Fiscal Analyst issued a notice of eligibility
for exemption for S.B. 188.

The options available to the Committee if it wishes to act on this bill would be:
(1) to move without recommendation and rerefer to Senate Finance; (2) do pass
and rerefer to Senate Finance; or (3) adopt the amendment and rerefer to
Senate Finance.

SENATOR CEGAVSKE:
Whether we do or do not accept the amendment, there is a fiscal note, so does
it still go to Finance?

MS. STONEFIELD:
Yes.

SENATOR SETTELMAYER:

The fiscal analyst is incorrect. Without the amendment, there is absolutely no fiscal note. I understand the desire to send it to Finance by some individuals. I would say do pass, with a rerefer to Finance.

SENATOR HORSFORD:

I would not support that motion. I think the amendment as proposed should be considered. I object to this unsolicited fiscal note, and this Committee should decide the policy in total and then refer the bill to Finance to review the fiscal impact. The Finance Committee is not in a position to hear policy discussions in addition to fiscal impact of legislation. I am concerned if we continue to refer bills without the policy being decided from the policy committee, we are going to open up those debates again, and it is not fair to the Finance members.

SENATOR SETTELMAYER:

I have had conversations with Mr. Bratsch about this issue. He was actually okay with the concept of do pass, get it out of this House, let it go through the process. He has my word if the Department of Corrections does not give the concept and implement 12-hour shifts, I will bring a bill back for him next year to address this issue. If it is the Majority Leader's desire, I will make a motion to do pass.

CHAIR PARKS:

We constantly go through a next year and a next year in dealing with these issues; it is time for us to take a position on this bill. We need to make the policy and direct the given agency to adhere to our directive.

SENATOR CEGAVSKE:

I have concerns about the amendment. We did have the policy discussion. The issue I have is we are telling the State prison entities at every location what their manpower is supposed to be and how many people they can have. It is not our job to tell them how many employees and what the hours are for their facilities.

Each one of those institutions has a different need and demand, and they need to be able to be flexible in who and how many people they can have and what the shifts would be. Looking back as a previous business owner, I am concerned. If someone dictated how many hours I had somebody work and

what I had to have as shifts, it would not have worked in my business. That is what I heard at the March 3 meeting.

I understand wanting to have three days on, four days off. In a perfect world, everyone could have everything they want and a salary of what they want. They got those jobs knowing what the shifts were, what they were going to be doing and that there were possibilities they could have 12-hour shifts. I cannot support the amendment. I support the bill but not the amendment.

CHAIR PARKS:

I know from all the years I have sat on either an Assembly Ways and Means Committee or Senate Finance Committee, we, in fact, do direct the Department of Corrections to its staffing levels, and we budget accordingly. I see it from a somewhat different perspective. We previously had directors of the Department of Corrections who were supportive of the 12-hour and the 10-hour type shifts for various employees.

SENATOR HORSFORD:

The amendment states 85 percent of staff at institutions or facilities would work under the 12-hour shifts. It does not mandate all employees. I agree with Senator Parks' position, we set the workweek for all state employees—the days, hours and terms.

We have a pay bill coming at the end of the Session; we set that, not just for the Department of Corrections, but for all of State government. We have done it with the furlough bill and we have discussed it with the possible four-day, ten-hour workweek. This is absolutely a policy decision for the Legislature to decide at a time when we are asking our State workers to have less money, give up benefits and go without pay due to furloughs; the least we can do is provide them, as they have requested, with a work schedule that is accommodating their needs and their ability to perform their jobs. For those reasons, I will not support the motion made by Senator Settlemeyer.

SENATOR DENIS:

We are asking our employees to do a lot, and we have been giving them less. They came to us, and this is something that would help us to have better working conditions. I am in favor of the amendment.

SENATOR SETTELMAYER:

I understand the concerns. We have heard in the past that 65 percent of staff has worked 12-hour shifts and 85 percent was unreasonable. We have not discussed—and it has not been brought to light—the nonconsensus among the guards, north and south. The north wants 12-hour shifts and the south does not. I do not feel right forcing a rule upon a group of employees who did not request it. I cannot support the amendment. I would rather pull the entire bill back.

CHAIR PARKS:

The comments I have received from correctional officers in the south, by majority, have been their desire for the flexible work schedule and periods that would allow them less travel time and more time at home with their families.

CHAIR PARKS:

The motion is to approve S.B. 188, do pass and rerefer to Senate Finance.

SENATOR SETTELMAYER MOVED TO DO PASS AND REREFER S.B. 188 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS DENIS, HORSFORD AND PARKS VOTED NO.)

* * * * *

CHAIR PARKS:

Do I have another motion?

SENATOR HORSFORD:

I move we amend and do pass S.B. 188 with the amendment as proposed. With regard to Senator Settelmeyer's point about not mandating 85 percent, I know we heard testimony on the range. Can staff or someone indicate what those options were? I want to be clear on this issue. I recall there was some discussion on possible different percentages. I do not know whether that came from the Department of Corrections, proponents of the amendment or part of the discussion.

CHAIR PARKS:

I remember the same discussion. The proposal of the amendment was not locked in to 85 percent.

MS. STONEFIELD:

The handout provided by Timothy Filson, Nevada Corrections Association, Nevada Correctional Peace Officers Political Action Committee, which accompanied the amendment, has a number of figures, [Exhibit G](#), that detail the number of full-time employees and vacant positions in the northern and southern facilities. It also lists some of the pros and the cons of a 12-hour shift along with direct savings as a result of the 12-hour shifts.

SENATOR HORSFORD:

It is possible to do some type of a range and to include a provision allowing the Director of the Department of Corrections the latitude in the event he could not meet the percentage range. He would have to get a waiver or approval from the Board of State Prison Commissioners. That would address some of the concerns.

One, we need to at least hit a certain range to make this work; perhaps somewhere between 65 percent to 80 percent of staff to work 12-hour shifts. I was initially thinking up to 85 percent. The problem is the Department could do as little as 20 percent and then that would not achieve the goal.

Two, we need a provision stating if the Director feels he cannot meet the range, and for some reason has to request a waiver to the percentage, he receive advanced approval from the Prison Board, which oversees prison operations.

CHAIR PARKS:

On page 4 of the proposed amendment [Exhibit G](#), on the extended part of line 38, we might simply change the "85%" to read: "to ensure that a minimum of 65% of correctional" Will this satisfy your concern?

SENATOR HORSFORD:

Thank you. Where could we add a conceptual amendment allowing the Director, if he or she was unable to meet the requirement, to receive, with the advanced approval of the Prison Board, a waiver to the 65 percent?

Senate Committee on Legislative Operations and Elections
April 14, 2011
Page 14

CHAIR PARKS:

We can just add a line saying, should the Director find that the 65 percent level cannot be satisfied, he may seek a waiver from the Board of State Prison Commissioners.

SENATOR HORSFORD:

I need to amend my own motion.

CHAIR PARKS:

The implementation of the 12-hour-shift workweek could be phased in over a period of time, achieving certain levels by certain points.

SENATOR HORSFORD:

From the fiscal side, if we amend it with this understanding, then our fiscal staff would be able to do a complete fiscal analysis of the proposal with the Department in advance of any final approval by the Senate. This way, there would not be a need to rehash the entire policy in the Finance Committee.

I make a motion to amend and do pass S.B. 188 with the amendment with the following correction on page 4 of [Exhibit G](#), section 1, line 38, changing "85%" to be "a minimum of 65%" and adding a new subsection stating, "The Director of the Department of Corrections, with the advance approval of the Board of State Prison Commissioners, may request a waiver to the minimum requirement with justification."

SENATOR SETTELMAYER:

I will be voting no against my own bill. You may want to correct it to include in your amendment, Senator Horsford, the concept only applies to the category Mr. Bratsch discussed during his testimony—the correctional officers—and does not apply to the administrative personnel.

CHAIR PARKS:

It is included in the language on page 3, line 38 of the proposed amendment.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED
AND REREFER S.B. 188 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CEGAVSKE AND SETTELMAYER
VOTED NO.)

* * * * *

CHAIR PARKS:
We will move on to S.B. 269.

[SENATE BILL 269](#): Makes various changes concerning elections. (BDR 24-840)

MS. STONEFIELD:
Senate Bill 269 was sponsored by Senator Joseph P. Hardy. I have provided a work session document ([Exhibit H](#)) on this bill.

On page 2 of the work session document, [Exhibit H](#), is a proposed amendment from Larry Lomax, Clark County Registrar of Voters.

CHAIR PARKS:
Senator Hardy, does the proposed amendment by Mr. Lomax meet with your approval?

SENATOR HARDY:
It is a very friendly amendment, Mr. Chair.

SENATOR SETTELMAYER:
I am concerned with unfunded mandates. Unfortunately, this bill has a fiscal note from the counties that they did not request, so I cannot support the bill.

SENATOR HORSFORD:
Senator Hardy, I would like to support the bill, but I am trying to understand what is broken and why we need to allow this. My concern is someone cannot run for the primary, or possibly run and lose, and then be a write-in candidate in the general election; this is not our process. Please explain the inadequacies of our current electoral process that warrant moving to this write-in approach.

SENATOR HARDY:
I became intrigued when Alaska had an issue where someone ended up winning with a write-in candidacy. What this bill does is protects voters' rights to have a viable person electable in a general election and not in the primary. It allows a

write-in opportunity after the primary, up until candidates file in mid-July in order to be consistent with the amendment.

A primary candidate goes through a process to list his or her party or through the petition process becomes an independent candidate, putting the candidate in the primary. In the general election, the write-in candidate is required to file a declaration of right-in candidacy in July and pay the fee. The person's name will not appear on the ballot. Voters will write the name on the ballot electronically and then the write-in candidate may have party affiliation, such as Lisa Murkowski in Alaska. Since the person's name is not on the ballot, his or her affiliation is not indicated; therefore, the write-in candidate is not really filing as anything.

SENATOR HORSFORD:

When does our primary process start?

SENATOR HARDY:

The primary is in June and the general is in November. During the process, this amendment creates a candidate filing period which is two weeks long, beginning on the first Monday in July and ending on the second Friday after the first Monday in July. This allows the candidate filing, the challenge and the withdrawal periods, and gives county clerks time to print ballots and get them to people overseas in the required time frame.

SENATOR HORSFORD:

In June, all the major candidates do their primary process. The Independent American Party and the Libertarian Party have their conventions before the primary and select their candidates in February. People can declare themselves as write-in candidates in July, at which time they are not candidates unless someone votes for them in the November general election.

SENATOR HARDY:

Once you have filed as a write-in candidate, you are now subject to the same laws and rules as all regular candidates as far as financial reporting and handling of unspent contributions.

SENATOR HORSFORD:

I am a voter and I go to the general ballot to vote. I have those declared major party candidates, Independent American and Libertarian candidates, and if

someone is declared as a write-in candidate, would that name also be listed on the ballot?

SENATOR HARDY:
No.

SENATOR HORSFORD:
Does someone have to write a person's name in as a write-in candidate to vote for that person?

SENATOR HARDY:
Correct.

SENATOR HORSFORD:
Our machines allow for that, but do we not allow for a write-in candidate to be considered?

SENATOR HARDY:
Correct. By law, we do not allow write-in candidates.

SENATOR HORSFORD:
Did we hear from the Secretary of State's Office? Do they support this bill?

SCOTT GILLES (Deputy for Elections, Office of the Secretary of State):
Our office did not speak on this bill when it was presented last week. Our office does support the bill. It is a policy decision for the Committee to determine if it wants to extend access to the ballot.

The one concern the Secretary of State's Office has is with respect to an individual who registered to be a write-in candidate but its minor party had not gained ballot access at that point. Somebody would be able to file the declaration as a write-in candidate after the primary when he or she had not had the minor party qualified—it is granting access to the ballot that someone would otherwise not have by virtue of the write-in aspect.

SENATOR HORSFORD:
Let me do a scenario. Senator Cegavske and I are running; she is a Republican and I am a Democrat. There are other minor party candidates who have gone through their process as an Independent American Party or a Libertarian Party.

What is the party affiliation of the person who writes in? Can he or she be a Republican, Democrat, Independent or Libertarian?

SENATOR HARDY:

They could be any party or no party on a write-in ballot. Candidates do not have to declare a party.

MR. GILLES:

My understanding of the way the bill reads right now is the write-in candidates, when they file their declarations, do not state or establish what party they are representing. Since the write-in candidates will not actually appear on any ballot, there will be no designation as to what party they are on the ballot.

SENATOR CEGAVSKE:

Can anybody file anybody's name or can anyone run? If I want to put my colleague's name in, I want him to run for something else, can I put his name in on the ballot and say he is running for a certain office? Is that allowable?

SENATOR HARDY:

No. The candidate has to show up, file, declare he is a resident, show identification, be who he says he is, show where he lives, all of those kinds of things.

SENATOR CEGAVSKE:

He pays the same amount of money as regular candidates. Is it no different?

SENATOR HARDY:

No.

SENATOR HORSFORD:

I will support it out of Committee. I have a lot of questions and I reserve my right to change my vote. The Secretary of State's position gives me a level of comfort. I do not want any more issues than what we already have in our election process.

SENATOR HARDY:

The Secretary of State's representatives walked me through the election process at our meeting. They were very supportive and instructive. I did not do this bill without them.

SENATOR DENIS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 269.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CEGAVSKE AND SETTELMAYER
VOTED NO.)

* * * * *

CHAIR PARKS:
We will move on to S.B. 286.

SENATE BILL 286: Authorizes awards to certain state employees who suggest
ways to improve the operation of State Government. (BDR 31-980)

MS. STONEFIELD:
Senate Bill 286 was sponsored by Senator Dean A. Rhoads and
Assemblywoman Debbie Smith. I have provided a work session document
([Exhibit I](#)) on this bill.

On page 2 of your work session document, [Exhibit I](#), is a conceptual
amendment from the sponsors.

SENATOR DENIS:
The State currently does this—gives awards. We had that budget the other day
in subcommittee. It would still go through that?

MS. STONEFIELD:
Chapter 285 of the *Nevada Revised Statutes* (NRS) is currently the Merit Award
Board. It is my understanding, and Legal Counsel agrees, the Board would be
retained, but the current program would be replaced by this bill.

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 286.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR PARKS:

We will move to S.B. 304.

SENATE BILL 304: Provides for redistricting of election districts in Carson City and the Cities of Henderson, Reno and Sparks, contingent upon voter approval. (BDR S-731)

MS. STONEFIELD:

Senate Bill 304 was sponsored by Senator Sheila Leslie. I have provided a work session document ([Exhibit J](#)) on this bill.

No amendments were offered. Lawrence A. Werner, City Manager, Carson City Consolidated City-County, requests the members of the Committee be reminded he urged that Carson City be removed from the bill, but he did not offer an amendment to do that. Chair David Parks requests the members be reminded the at-large member in the City of Reno would be eliminated and a sixth ward would be created.

SENATOR DENIS:

This bill would allow diversity and allow people to run who would not have been able to run in the past. This bill will not make it so candidates will only advocate for the area from which they are elected, they will advocate as a whole.

CADENCE MATIJEVICH (Legislative Relations Program Manager, Office of the City Manager, City of Reno):

I would like the Committee to know that while the City of Reno had originally been opposed to this bill, this measure has been reconsidered and the City of Reno has changed its position. The City of Reno is supportive of this bill.

We would like to work with the sponsor to seek amendments to clarify the ballot question language to indicate one of our wards would be changed from an at-large to an individual ward and some of the mechanics about what happens for the person who is elected in the at-large district if he or she does not live in the new ward created by the redistricting process. I know there is a narrow

Senate Committee on Legislative Operations and Elections
April 14, 2011
Page 21

window of time to get those amendments fixed before the floor session, but we appreciate the opportunity to put this on the record.

SENATOR DENIS MOVED TO DO PASS S.B. 304.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR PARKS:
Next is S.B. 344.

SENATE BILL 344: Enacts the Agreement Among the States to Elect the President by National Popular Vote. (BDR 24-1269)

CHAIR PARKS:
It is my understanding there is not strong support for this bill ([Exhibit K](#)). We can move to the next bill, S.B. 390.

SENATE BILL 390: Revises provisions relating to the statewide voter registration list. (BDR 24-1117)

MS. STONEFIELD:
Senate Bill 390 was sponsored by the Senate Committee on Legislative Operations and Elections. I have provided a work session document ([Exhibit L](#)) on this bill.

On page 2 of the work session document, [Exhibit L](#), is an amendment from Jesse A. Wadhams, Pew Center on the States.

The Committee may remember there was testimony from Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services, and also from Stacy Woodbury, Chief, Administration Division, State Gaming Control Board. Both wished to be recorded as neutral but both raised concerns about the confidentiality of the kinds of records maintained by those two agencies.

The amendment has the effect of making exceptions for existing confidentiality provisions.

SENATOR SETTELMAYER:

We have been trying to work with the sponsors to gain more broad-based support for this. We discussed what was done in other states. In Utah, the department head can enter into an agreement with the secretary of state, solving the problem with all these separate amendments. This is a reasonable approach with this type of amendment.

CHAIR PARKS:

We have the sponsors of the amendment here today. I would like to ask them if they would come forward along with representatives from the Secretary of State's Office.

MATTHEW M. GRIFFIN (Pew Center on the States):

Senator Settelmeyer's recitation is correct. We would be amenable to an amendment of that nature. It is mirroring the language approved and passed unanimously out of the state of Utah.

For the record, the sponsor's intent is the only information relevant to the Secretary of State's maintenance of the database would be name, social security number, age, residence, length of residence, citizenship and status as a felon. This is the only information this bill is seeking to obtain from other state entities and share with other states. For anyone in an agency who has a concern about sharing this information, we are amenable to any amendment which would go into subsection 6 to read:

Except as otherwise provided in: The provisions of NRS 481.063; or any provision of law or regulation providing for the confidentiality of information, the Secretary of State may enter into an agreement with an agency of the State to provide to the Secretary of State any information in the possession of the agency that the Secretary of State deems necessary to maintain the statewide voter registration list.

Any language to that effect would be reasonable. We would support a friendly amendment of that nature.

SENATOR CEGAVSKE:

Would the present amendment be withdrawn? Would there be a new amendment? You could have an amendment that states the Secretary of State has the ability to enter into an agreement with any of the agencies, whether they choose to or not, instead of giving exceptions to certain entities as in the previous amendment.

MR. GRIFFIN:

We would be amenable to withdrawing our amendment we proposed to the Committee and replacing it with the one just discussed so long as the Secretary of State's Office has no objection.

SENATOR CEGAVSKE:

What will it cost the State to participate in this program? Is this one-shot or ongoing funding, which will cost the State on a regular basis to the Pew Center?

MR. GRIFFIN:

The cost would depend on how many states participate in the program. It was estimated around \$75,000 a year. In July, ten Western states will begin implementation of this project of how voters are identified and registered. Ten states is a higher number than anticipated.

SENATOR CEGAVSKE:

Once we set this up, we will be charged \$75,000 a year?

MR. GRIFFIN:

Yes. The more states that participate in the project, the lower the cost. Within a ten-year time frame, you are going to see over half, if not every state, participating. The cost would go down to \$5,000 to \$10,000 a year.

SENATOR CEGAVSKE:

Is the Pew Center on the States the only one that does this?

MR. GRIFFIN:

That is correct. The Pew Center has sponsored this project with the participating states. There have been attempts to introduce legislation in Congress, but the idea has not gotten anywhere.

SENATOR CEGAVSKE:
Introduce what?

MR. GRIFFIN:
Introduce legislation that would do exactly what the Pew Center is doing. The difference being, that would take it to a federal level. The federal government would mandate every state has to participate—the Secretary of State must provide voter registration information to the chief election officer of another state.

The Pew Center has taken the position: let states choose if they want to participate.

SENATOR CEGAVSKE:
Would this agreement bind the State into using General Fund money if we run out of Help America Vote Act (HAVA) funds? Is there something we can put in the language to trigger it back if the HAVA money runs out?

MR. GRIFFIN:
It is an annual agreement. The secretary of state of each state can decide if it wants to continue to participate.

SENATOR CEGAVSKE:
Each year? Is that in our language?

MR. GRIFFIN:
No. That language is in the proposed governing bylaws of the Board that would oversee the database.

SENATOR CEGAVSKE:
Can we put something in our language to help ensure if the HAVA money is no longer available, the State would not be obligated to pay \$75,000 a year?

MR. GRIFFIN:
In order for the State obligation, the Secretary of State's Office would have to include it in its budget to the Legislature. The funds would still have to be appropriated by the Legislature down the road, even if the Secretary of State agreed to enter into an agreement. There is around \$6.5 million left in the HAVA budget.

JESSE A. WADHAMS (Pew Center on the States):

If you direct your attention to page 3, section 1, subsection 8, line 9 of S.B. 390, it is simply an authorization that the Secretary of State “may” do these things. We do not need additional language because it is enabling legislation, not mandating legislation.

MR. GILLES:

We are in favor of the amendments by Mr. Griffin and Mr. Wadhams. The only concern we would have with any amendment would be it precludes us from participating in this project. Based on Mr. Griffin and Mr. Wadhams being in favor of the amendment, I am assuming that is not the case. The amendment would allow the Secretary of State to participate in this project down the road—that is what the legislation does.

CHAIR PARKS:

Mr. Gilles, are you in support of the amendment brought forward by Mr. Wadhams? Is that the amendment you are referring to?

MR. GILLES:

The amendment I am in support of is the one discussed verbally, not the one in writing, but the amendment Senator Settelmeyer suggested.

CHAIR PARKS:

The one enforced in Utah?

MR. GILLES:

That is correct. We would enter into agreements with department heads.

SENATOR SETTELMAYER:

My motion was to amend and do pass with the amendment I am proposing. New language would be inserted stating the Secretary of State has the authority to enter into an agreement with agencies to acquire said information.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 390.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR PARKS:
We will move to S.B. 391.

SENATE BILL 391: Revises provisions relating to ethics in government.
(BDR 23-1116)

MS. STONEFIELD:
Senate Bill 391 was sponsored by the Senate Committee on Legislative Operations and Elections. I have provided a work session document ([Exhibit M](#)) on this bill.

On page 2 of the work session document, [Exhibit M](#), is an amendment from Chair David Parks. On page 3 of the work session document, [Exhibit M](#), is a mock-up of Proposed Amendment 6272 to S.B. 391 prepared by the Legal Division.

KEVIN POWERS (Senate Legal Counsel and Bill Drafting Adviser, Legal Division):
I am here to answer any of the Committee's questions as we proceed through the amendment. Ms. Jenkins will walk us through the amendment.

CHAIR PARKS:
We previously heard testimony on the original bill from Caren Jenkins, Executive Director, Commission on Ethics. Ms. Jenkins, could you quickly take us through Proposed Amendment 6272?

CAREN JENKINS (Executive Director, Commission on Ethics):
There are four issues in the mock-up of Proposed Amendment 6272 to S.B. 391. As presented last week, the Commission on Ethics had hoped to include a "significant personal interest" among those conflicts of interest which would be precluded by the Ethics in Government Law. The references to "personal interest" have been removed from this measure as they were an enlargement of the scope of the conflict statutes in Ethics in Government Law. All of those sections have been removed where "personal interest" was not in the initial statutory language.

There were a number of changes to the language itself. We would like to point out one additional change which will need to be added to this document. On page 14, line 29, of the proposed amendment, [Exhibit M](#), the current language refers to prohibiting a public officer from accepting or seeking a gift which would tend to improperly influence a reasonable person to depart from the faithful discharge of his or her duties.

We could not figure out any proper influence that would cause someone to depart from the faithful discharge of their duties. Therefore, we are recommending the word "improperly" on line 29 be removed.

The Commission on Ethics would like to propose a change to the definition of "public officer" on page 8, section 11 of the proposed amendment, [Exhibit M](#). A public officer has to meet two tests in order to be considered a public officer: (1) to be able to point to the language in constitution, statute, ordinance or charter where his or her position was created; and (2) whether the officer has administrative discretion or authority to expend public money. With the change proposed in section 11 in NRS 281A.160, we not only add positions created in the law but positions authorized to be created in law.

We have found a number of superintendents of school districts, CEOs of hospital districts or other individuals who have control over budgets of public money who need not participate in financial disclosure statement reporting and need not follow the Ethics in Government Laws because they are not public officers.

We would like to propose the enlargement of the definition of "public officer" to go with the financial disclosure statement (FDS) statutes we are proposing leave our section of law.

Wherever Legislative Counsel Bureau ends up putting the FDS language, we would like the "public officer" definition on page 8, section 11 of the proposed amendment, [Exhibit M](#), to either be referenced in the Ethics in Government Law or the same definition to be repeated wherever the FDS reporting language ends up. This way, a public officer, under the Ethics in Government Laws, can be identified as having conflicts of interest through the filing of financial disclosure statements.

Senate Committee on Legislative Operations and Elections
April 14, 2011
Page 28

Wherever the FDS reporting goes, so should the definition in NRS 281A.160 as presented on page 8 of the proposed amendment, [Exhibit M](#).

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 391.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CEGAVSKE AND SETTELMAYER
VOTED NO.)

* * * * *

CHAIR PARKS:

There being no further business, the meeting is adjourned at 6:02 p.m.

RESPECTFULLY SUBMITTED:

Michelle Ené,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

EXHIBITS			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 8	C	Carol Stonefield	Work Session Document
S.B. 98	D	Carol Stonefield	Work Session Document
S.B. 133	E	Carol Stonefield	Work Session Document
S.B. 170	F	Carol Stonefield	Work Session Document
S.B. 188	G	Carol Stonefield	Work Session Document
S.B. 269	H	Carol Stonefield	Work Session Document
S.B. 286	I	Carol Stonefield	Work Session Document
S.B. 304	J	Carol Stonefield	Work Session Document
S.B. 344	K	Carol Stonefield	Work Session Document
S.B. 390	L	Carol Stonefield	Work Session Document
S.B. 391	M	Carol Stonefield	Work Session Document