MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS

Seventy-Seventh Session
March 12, 2013

The Senate Committee on Legislative Operations and Elections was called to order by Chair Pat Spearman at 8:03 a.m. on Tuesday, March 12, 2013, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 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 Pat Spearman, Chair
Senator Mark A. Manendo, Vice Chair
Senator Kelvin Atkinson
Senator Barbara K. Cegavske
Senator James A. Settelmeyer

GUEST LEGISLATORS PRESENT:

Senator Justin C. Jones, Senatorial District No. 9

STAFF MEMBERS PRESENT:

Carol M. Stonefield, Policy Analyst
Mary Moak, Committee Secretary

OTHERS PRESENT:

Paula Berkley
Janine Hansen, Nevada Families
Lynn Chapman, State Treasurer, Independent American Party
Craig Madole, Nevada Chapter, The Associated General Contractors of America, Inc.
Patrick T. Sanderson
Elisa P. Cafferata, President and CEO, Nevada Advocates for Planned Parenthood Affiliates
Ross Miller, Secretary of State

Barry Smith, Executive Director, Nevada Press Association
Stacey Shinn, Progressive Leadership Alliance of Nevada
Fred Lokken, Professor, Political Science Department, Truckee Meadows Community College
Martin Dean Dupalo, President, Nevada Center for Public Ethics
Mary Porter

Chair Spearman:
We will hear Senate Bill (S.B.) 203, presented by Senator Justin Jones.

SENATE BILL 203: Requires legislative lobbyists to file quarterly reports concerning lobbying activities under certain circumstances. (BDR 17-26)

Senator Justin C. Jones (Senatorial District No. 9):
I am introducing S.B. 203 for one simple reason: it provides another tool to foster good government. Good government requires transparency in lobbying and legislative activities. Senate Bill 203 is a bill which amends *Nevada Revised Statute* (NRS) 218H to require a registered lobbyist to file a quarterly report of lobbying activities during the months the Legislature is not in session. The NRS 218H requires registered lobbyists file reports covering their activities during the Legislative Session. Lobbyists must file monthly reports during regular and special sessions and one final report 30 days after the close of a session.

We all know lobbying goes on during the interim. Many registered lobbyists have an interest in the work of the Legislative Commission, the Interim Finance Committee and interim committees. They testify formally before these committees, but also request private meetings with Legislators to represent the interest of their clients. They work on issues that will be considered in the next Legislative Session. There is nothing wrong with this. Lobbying is an essential part of the legislative process. We rely on lobbyists as an important source of information. Our constituents have a right to know which lobbyists are actively engaging in activities outside the Legislative Session, and that is the purpose of this bill.

It is equally important to address what S.B. 203 does not do. It does not affect the definition of lobbyist. If a person is exempt from filing lobbyist reports now, that person will be exempt from filing lobbyist reports in the interim. If a person is required to register now, he or she will be required to register in the interim if

that person is engaging in lobbying. If a person who lobbies during a session is not going to lobby during the interim, that person can file a termination report, giving notice that he or she will cease lobbying activities. People who do this will only have to file the activity report for the last lobbying period, and then they have completed their obligations until they register once again.

A similar bill was introduced last Legislative Session. Questions were raised about unpaid lobbyists and whether they would be required to file these reports. Testimony indicated that some unpaid lobbyists would be discouraged from participating in the interim process, especially if one of them forgot to file a quarterly report and was penalized. To address this concern, S.B. 203 provides on page 3, lines 37 to 40, that "a registrant is not required to file a report pursuant to this subparagraph if the registrant did not receive compensation for such lobbying activities."

I am willing to consider other provisions to exempt unpaid lobbyists if they are still uneasy about this bill's impact on their participation in the legislative process. We need our citizen lobbyists.

Senate Bill 203 advances good government by requiring paid lobbyists to report activities through the interim as well as the Legislative Session. I ask for your consideration upon this bill.

Paula Berkley:
I support this bill. It is an important step for transparency. People have great concerns over what lobbyists do, the influence they have and whether it is appropriate. Senate Bill 203 will clarify what lobbyists do and how they act. This is an important step for helping people have competency in government.

It is kind of like the turnaround-is-fair-play rule we learned on the playground. If it is important that we report during the session, then it is important after the session. If it is not important what lobbyists do and report in the off session, then we might as well repeal the one during the session.

I would give one caveat. I do not expend money in my lobbyist activities, so it is easier for me to come up and talk to you about this. You have to take that into consideration.

Janine Hansen (Nevada Families):
Senator Jones mentioned one of our concerns, which we want to state for the record. I want to make sure that on page 3, section 6, subsection 1, paragraph (b), subparagraph (2), registrants who do not receive compensation for their lobby work will be exempt from the S.B. 203 required reporting.

This Legislative Session, there are 201 unpaid lobbyists. They perform a great service for us. They are interested in good government and do so at their own expense. We are concerned about discouraging them.

We are pleased Senator Jones has exempted unpaid lobbyists. Filing during the Legislative Session has discouraged many unpaid lobbyists from participating, as many only attend once in a while. They feel it is a public duty to attend and help with the legislative process.

My understanding of Assembly Bill (A.B.) 190 is even if a termination report was filed, if a lobbyist wanted to participate in an interim hearing or speak with a Legislator, it may be construed that the lobbyist would have to file a report.

ASSEMBLY BILL 190: Requires legislative lobbyists to file reports concerning lobbying activities when the Legislature is not in session. (BDR 17-986)

As long as this is not the case, we do not oppose S.B. 203.

Lynn Chapman (State Treasurer, Independent American Party):
If during the interim I attend a luncheon that is also attended by Legislators, if I do not buy them anything and they do not buy me anything and I speak with someone, do I have to fill out a report? As a nonpaid volunteer, it is my time and my dime. I want to make sure that I am not fined or taken off to jail for speaking with a Legislator.

Other than this concern, we do not have a problem with S.B. 203.

Craig Madole (Nevada Chapter, The Associated General Contractors of America, Inc.):
There is a difference between registering as a paid lobbyist and being a professional lobbyist. We have members who register as paid lobbyists so they can represent specific concerns their companies have. They are not professional lobbyists, but pay the $300 fee out of an abundance of caution with the new

rules. They do not want to be in a position of representing their companies and then be in error for having registered as a nonpaid lobbyist. Our concern is that these members are not lobbyists; they are superintendents, foremen and workers. They register to ensure they do not violate the intent of the rule.

We would like to address those concerns and ensure we are not encapsulating members of the lobbyist force, if you will, who are not really the people this bill is intended to affect.

Senator Manendo:
Do your members lobby in the interim?

Mr. Madole:
They do not. They register as paid lobbyists and would be required to file reports as paid lobbyists. Our concern is when a member gets transferred from the Reno office to Elko. Nobody reminds him or her to file the quarterly reports, and he or she receives a bill for a fine or an attempt is made to prosecute this matter. I am sure we are not the only work association representing similar interests.

Senator Manendo:
I think we need to look at that part of the bill to make sure we are not going after folks back on the job who do not have interactions with Legislators. The people who are professional, who are the hired guns, they need to be reporting.

Patrick T. Sanderson:
I attend the interim committee hearings that are important to me. I talk with our Legislators and testify at the meetings, but I am not getting paid during the interim. I get paid during the regular session. I attend because I care about the issues in the State.

I occasionally take a vacation for a month or two. If that happens during the time I am supposed to file my paperwork, I could miss out. I do not mind doing the things that are necessary, but for people who are not getting paid big money and attend the interim meetings because they care about the State, I would like a little bit of leeway, one way or the other. I will get with the sponsor of the bill and take it from there.

Elisa P. Cafferata (President and CEO, Nevada Advocates for Planned Parenthood Affiliates):
We are in support of this bill and the companion bill in the Assembly, A.B. 190. The IRS has a specific legal definition of lobbying: providing information in attempt to influence a vote on a specific piece of legislation.

During the interim, a lot of work done by the Legislature is educational; information is gathered and legislation may or may not be proposed as a result of interim hearings.

Those of us who are professional lobbyists would like clarification as to what activities would qualify for the lobbying definition during the interim. We receive excellent guidelines from the Office of the Secretary of State and the Legislative Counsel Bureau that are clear during the Legislative Session if we are talking about specific legislation, but they are less clear for the interim.

Senator Jones:
With regard to the concerns raised here today, I will be happy to work with all who have testified and bring the concerns back in a work session.

With regard to Mr. Madole and Mr. Sanderson, those concerns can be addressed through NRS 218H.230. If someone is here during the Legislative Session but does not do anything in the off session, they can file a petition to terminate as a lobbyist.

Senator Settelmeyer:
What about something such as, if they do not spend any money, they could find an exemption that states "no spending money during the interim."

Chair Spearman:
We will now close the hearing on S.B. 203 and open the hearing on S.B. 49.

SENATE BILL 49: Revises provisions relating to public officers. (BDR 24-382)

Ross Miller (Secretary of State):
I am here to present S.B. 49, which we are referring to as the Aurora Act (Exhibit C). I have two letters in support of S.B. 49 to present to the Committee (Exhibit D). During the 83 days left of this Session, you are going to be grappling with issues trying to improve the status of Nevada for our

constituents. We are faced with a number of challenges. Many of those challenges bring significant considerations as to funding requirements. They may not be resolved because of partisan differences in outlooks in terms of needed policy. This is one of those areas that can be addressed without requiring a single dime of additional expenditures and should be approached in a bipartisan manner. We have seen that reflected across the Country.

This is a two-part bill. First, it will increase campaign finance disclosure by providing increased transparency in who funds Nevada campaigns and how much is spent by candidates and third-party groups. Second, it will clarify what gifts are banned or acceptable and what gifts must be disclosed by public officers.

Nevada is consistently ranked near the bottom of the states, given Fs in the area of campaign finance and ethics disclosures. We can resolve this. I do not believe that this is truly a partisan issue. Across the Country, we have all kinds of examples from Republicans and Democrats alike, bringing ethics and campaign reform packages forward and getting these measures passed.

I would like to first discuss the highlights of the proposed changes to chapter 294A of *Nevada Revised Statutes* dealing with campaign finance reform. Section 4 of the bill refers to cash on hand reporting. This will require public officers and candidates to report the balance of their campaign accounts in their first contributions and expenses report of each calendar year. This will allow the public to know how much money is being carried over from year to year. Contribution totals that are currently reported only reflect those received within a single calendar year.

Sections 5 and 6 refer to real time reporting. Those provisions will require candidates to report contributions and expenses totaling over $1,000 within a 72-hour period.

Section 3 defines what a personal use of campaign contributions means. Personal use is prohibited in this State, but there has never been a clear statutory definition as to what it entails. Our Office and the Attorney General's Office has relied upon an Attorney General's opinion. This definition is in line with the federal standard, and there is no departure from how this term has been interpreted in the past by the Office of the Secretary of State.

The bill also makes changes to NRS 294A's enforcement provisions by clarifying that our Office could seek injunctive relief for campaign finance violations to ensure that individuals and groups not only pay financial penalties for failure to disclose but must disclose the activity. This provision will ensure that the Secretary of State, in conjunction with the Office of the Attorney General, could request—and the courts could order—an individual or group to file a contributions and expense report, which will preclude violators from just buying their way out of disclosure. The provision also allows the Secretary of State to seek penalties up to three times the amount of money at issue in the reporting violation. This does not apply to the specific penalty schedule for contribution and expense reports that are filed late. This change relates directly to general violations of NRS 294A, in which the Secretary of State, in conjunction with the Office of the Attorney General, may only penalize an offending party up to $5,000 for each violation. This change will give the Secretary of State and the Office of the Attorney General more flexibility in seeking penalties more in line with the amount of money involved in reporting violations.

The second part of the Aurora Act addresses provisions of gift acceptance and disclosure. These changes update our laws as they apply to gifts by public officers and given by those who potentially benefit financially from providing the gifts. Not every gift provided to a public officer has ulterior motives, and that is why I attempted to craft legislation that does provide for an allowable set of gifts to be made. We have attempted to ban gifts that could lead to the appearance of improprieties that result from lax restrictions on this activity. The clarifications will allow that gifts must be reported on financial disclosure statements, which are now filed with our Office.

Many states have restrictions on gifts similar to what we are proposing in S.B. 49, including Arizona, Utah, Oregon and Iowa, whose gift language these provisions are modeled after. Many states have more onerous gift restrictions for their public officers, with strictly applied aggregate value limits. In Washington State, there is a $50 aggregate value limit for a calendar year; California's restriction is similar. The Center for Public Integrity is keeping tabs on reform efforts throughout the Country, and many jurisdictions are exploring language similar to what we have proposed.

Under S.B. 49, there is no limit on the amount of authorized gifts a public officer may receive. Authorized gifts with an aggregate value of over $200 will need to be reported on the public officials' financial disclosure statements.

The provisions in S.B. 49 related to gifts will establish: one, what is a prohibited gift or what gifts may be accepted by a public officer or given by a donor; two, what is an acceptable gift to receive and give; three, who is a restricted donor; and four, what gifts must be disclosed.

Section 26 of S.B. 49 defines gifts as "a payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value." The definition excludes a campaign contribution, a commercially reasonable loan and anything of value received from a relative within the third degree of consanguinity or affinity or from the spouse of such relative. This applies to children, grandchildren, great-grandchildren, parents, siblings, grandparents, uncles, aunts, nieces and nephews. You can receive gifts from all those people even if you are related to them by marriage.

The bill also defines restricted donors to include individuals who intend to benefit financially from the decisions made by the recipient of gifts, and the term also includes lobbyists. A restricted donor is anyone who would stand to benefit in front of the public body in a manner that would be greater than the average member of the general public. The general rule would prohibit a restricted donor from giving a gift to a public officer, and it would prohibit a public officer from accepting a gift from a restricted donor.

There are two clarifications to this black-and-white rule. First, there is a safe harbor provision. A public officer who receives such a gift in violation of this new standard would have 30 days after the receipt of the gift to donate an amount equal of the gift to a tax-exempt nonprofit or to any governmental entity or fund of the State to avoid a violation. Second, section 30 of this bill provides an extensive and generous list of authorized gifts a public officer can receive from a restricted donor.

I want to note a few authorized gifts to provide some clarity and show the boundaries this legislation attempts to draw. Many of you here who act with colleagues from other jurisdictions may be familiar with other types of ethics legislation known as the "not even a cup of coffee" legislation. This is not that

extreme; you can in fact receive a cup of coffee. However, the daily limit is $3 from a restricted donor, so you can get a cup of coffee but not a latte.

Reimbursement of food, travel, lodging and registration fees related to participation in a panel, seminar or other types of speaking engagements are all items you can receive. Others include: items received from an organization of which the public officer is a dues-paying member, if all the members receive it; plaques, awards and the like given for a public officer's public service; food or beverage at a reception to recognize public service of the public officer; flowers or other memorials for a funeral service, wedding or anniversary; salaries reimbursed from a public officer's employers; and food, beverage and entertainment provided at an event during session to which every member is invited. The gift restrictions and authorization in this legislation do not affect in any way, shape or form the general ethics provision which is overseen by the Commission on Ethics on the acceptance of any gift which would tend to improperly influence a reasonable person in the public officer's position from the faithful and impartial discharge of his or her public duties.

Section 32 of the bill exclusively notes that nothing in the bill should be construed to authorize a public officer to accept a gift in violation of this statute. The intent of the donor and the potential impact of the behavior of the recipient are irrelevant to the law to be violated. Rather, the issue is whether the person giving the gift is a restricted donor and whether any section 30 exceptions apply in receipt of the gift. Sections 31 and 36 extend the authority to the Office of the Secretary of State to enforce the provisions of the Aurora Act in a manner identical to the Office's enforcement of contribution and expense reports.

Sections 18 through 22 revise NRS 218H, the chapter which regulates lobbying in Nevada, to extend a new definition of gift to lobbyists that requires they report gifts as defined by the bill. The changes will also require that the Director of the Legislative Counsel Bureau give notice to the Office of the Secretary of State of lobbyist reports and to report suspected violations to the Secretary of State.

Nevada is routinely listed at the bottom of states regarding campaign finance disclosure and ethics. In 2012, The Center for Public Integrity ranked Nevada as forty-second nationally, with an overall grade of D. In the specific area this bill is designed to address, we were graded as follows: in terms of lobbying

disclosure, we received an F; in terms of legislative accountability, we received a D; in ethics enforcement, we received an F. That same survey ranked Iowa as the seventh in the Nation. The language of the gift provision was modeled after the Iowa laws on gifts to public officials.

These grades are atrocious, and I believe Nevadans deserve better. We ask for your support on S.B. 49 because Nevadans deserve to have their public officers and candidates held to a higher standard and know that those standards are being met consistently.

Senator Cegavske:
Some of the smaller offices throughout the State do not raise as much as others. Have you considered adjusting the filing fees?

Secretary of State Miller:
We have not completed a comprehensive review to figure out how much money is being contributed to members of the legislative body. Two years ago, we did a survey to come up with a reasonable figure based on the amount of checks typically received by a Legislator. Based on that analysis, we came up with the $1,000 figure, understanding that this is not precise, just what we think is reasonable in terms of what should be reported in real time. It would be onerous to have to report every contribution. We are asking that large contributions of $1,000 or more be reported within 72 hours.

Senator Cegavske:
Would you consider changing the 72 hours to 3 business days? If a contribution is received on a Thursday evening before a holiday weekend, it may be difficult to meet the 72-hour requirement.

Secretary of State Miller:
That is a reasonable suggestion. We can potentially work on language that amends the bill to 3 business days, which still gives the public transparency but makes it workable for elected officials.

Senator Cegavske:
Would postdated checks be visible?

Secretary of State Miller:
You are required to report when the candidate or the campaign comes into physical position of the check. The date on the check is not relative. It is not uncommon for a lobbyist to receive a check from a company and then wait a couple of months to present the check to the candidate.

Senator Settelmeyer:
As a citizen Legislator, conducting a business, running to the bank every day to deposit checks eats time out of the day. Because of that, does it make sense to report when the funds are deposited in the bank or when the campaign utilizes the funds? When using my MasterCard, do I report the expenditure when I charge the expense on my card or when I pay the MasterCard bill?

Secretary of State Miller:
The public interest in knowing about these funds and the potential for abuse outweighs those concerns. If we set up that framework, it would allow any candidate who wanted to shield disclosure of funds to not deposit them for a period of time, incurring expenses knowing that he or she had a check to cover the expenses. You could hire consultants and have them buy TV time—while you sit on $200,000 to $300,000 in large contributions not required to be reported, hypothetically because they had not gone to the bank.

I am receptive to suggestions that would make it less onerous for public officials and candidates. I understand this is a citizen Legislature, but at the end of the day, the candidates and the elected officials find time to call donors to raise money, make arrangements to receive checks, oftentimes deposit the checks and spend the money. Looking at the public interest—in adding real time disclosure, giving the public the ability to know whether candidates' money is available for use and whether that can influence important actions they take in carrying out their public duties—outweighs the burdens of having to deposit and report checks.

Senator Settelmeyer:
How do you differentiate from being a candidate and an elected official?

Secretary of State Miller:
The reporting requirements apply equally to candidates and elected officials. You are a candidate when you raise over $100 and file a declaration of

candidacy. As an elected official, you are also required to file a contributions and expense report. The rules are identical.

Senator Atkinson:
Section 5 states real time reporting of over $1,000. How was the $1,000 sum decided upon? If someone is trying to avoid being listed on a contribution report, he or she could give the candidate less than $1,000. Would he or she be listed if additional contributions were made; is it accumulative?

Secretary of State Miller:
It is accumulative, a $1,000 aggregate within the cycle. If an individual gave you $999, it would not have to be reported within 72 hours, until he or she gave you the additional $1. We came to this amount by looking at the most common denomination of checks, eliminating the smaller checks, but capturing the larger contributions the public would have an interest in.

Senator Atkinson:
I would say most contributions are above $1,000, especially if you have been here a while. I am not sure why we have a threshold. It could lead to intentional contributions being made under just the $1,000 so it does not have to be reported or because the donors do not want to take the time to do it.

Secretary of State Miller:
The threshold is to address concerns from Legislators and elected officials that it would be burdensome to report smaller amounts. It is founded on our belief the public is concerned with the large contributions.

I am trying to move us from an F to a passing grade. I do not buy into the argument that because we are not getting to an A, we should not do something. I will commit to you, if we move through the legislative process and enough people, like you, think we should get rid of the threshold requirement and just require real time reporting of any contribution in any amount, I will come back to this Senate and ask to remove the $1,000 threshold.

Senator Atkinson:
For the 10 percent of not reporting, I do not think it is worth it.

Chair Spearman:
Would it be possible to put the requirements in the form of a tutorial on your Website or YouTube? I am thinking about the candidate for school board or one of the lesser offices who might get $1,000 and does not have a professional accountant to help.

Secretary of State Miller:
Every candidate filing a declaration of candidacy is walked through the statutes that apply and given a pamphlet. We try to make that information available to the public. A change of this scale would require significant educational outreach and is something our Office would gladly undertake.

Barry Smith (Executive Director, Nevada Press Association):
I am speaking in support of this bill. Nevada needs to come a long way in taking care of what should be considered basic reforms in campaign expenditure reporting. To emphasize on behalf of the press and the public, section 4, cash on hand reporting: it seems so basic to add the information on the balances that carry over from year to year. As for transparency in government, that just seems like something that should be basic, as are most of these provisions. That is what the press looks for, looks at and reports on. Reporting contributions and the cash on hand is very important.

Stacey Shinn (Progressive Leadership Alliance of Nevada):
We are here in support of S.B. 49. We support clarity for campaign contributions and expenses, which will provide for better understanding and comprehension of the law. The voting public should be able to easily follow money in politics and understand how public officials are being influenced.

Fred Lokken (Professor, Political Science Department, Truckee Meadows Community College):
I speak in favor of this legislation. Nevada is lagging in this type of transparency established elsewhere. When I left Wisconsin 22 years ago, a member of the Assembly was resigning because of inadvertently receiving a $5.31 coffee and doughnut. Senate Bill 49 does not go that far, but most states have a greater burden to ensure transparency and honesty in government. Tracking contributions in real time during campaigns is a tremendous gift to the voters in Nevada.

Nevada is filled with distrustful voters. It is based on a relationship with government that has not been positive. In other states, it has been addressed by legislation like this, which establishes a higher bar of expectations of elected officials so voters are confident that their government is ethical, clean and just. This tested legislation, borrowed from Iowa, has been in place for decades as an elected officials standard of expectations. It is another step in the journey of making government in Nevada the type of government voters deserve. I encourage you to support it.

Martin Dean Dupalo (President, Nevada Center for Public Ethics):
I have written about campaign disclosure, transparency, accountability issues, public gifts, elections and waste, as well as research about Nevada's lobbyists and matters ranging from comps to active municipal ethics measures. My mission is to educate, research and advocate public ethics.

Ethics refers to those well-founded standards of right and wrong that prescribe what humans ought to do. It speaks to promoting transparency, avoiding conflicts of interest, waste, fraud, abuse and accountability. These are not buzz words; they are important areas of public policy. The idea of ethics may seem simple, but it is increasingly necessary in a world more complex than ever before. Last Thursday, I testified in front of the Assembly Legislative Operations and Elections Committee. I will reiterate what I stated clearly, the State of Nevada and the state of public ethics within it is poor. Last year, I served as a peer reviewer for a major study conducted by The Center for Public Integrity, in partnership with Global Integrity and Public Radio International. It was called the State Integrity Investigation, which you have heard referred to in earlier testimony. Based on the common grading scale, Nevada earned a D, with a raw score of 60 out of 100 possible points, again ranking at forty-second in the Nation. A full report is available online.

In a less-than-scientific poll by an Internet outfit, the City of Las Vegas ranked tenth behind such cities as Detroit, Chicago and Washington, D.C.

In Nevada a few months past, a public official stated there was a cost to post information for the public. This response followed an earlier situation when a request was made to a public employee who refused to reveal contact information to publicly appointed board members. A story broke about how the public should be excluded from learning about renewable energy rate purchases.

There is a cost to public secrecy, to corruption, to personal benefit via a public position, and the public always pays for that cost.

A 2012 academic study by the University of Illinois at Chicago pegged the annual cost of political corruption within Illinois at $500 million alone. That corruption often comes through many methods, ranging from the improper wording of government contracts to regular zoning. All these things that the citizens of Nevada have read about consistently over the years are difficult to detect without strong ethics laws and without transparency.

Last week in testimony, I briefly covered 15 general areas. A larger listing of 42 broader areas could be used to improve the level of confidence Nevada citizens could have in their government, should you wish to address them.

Senate Bill 49 proposed measures go toward a broader goal of accountability and transparency and should be supported. One aspect I would add is an aggregate gift amount. Reporting is fundamental, but it would be better if there was an annual limit for public officials.

Ms. Chapman:
I will be addressing section 17, page 21. How many times have candidates and elected officers not reported contributions and expenditures? How many waivers were given and to whom? Is it fairly implemented?

The Independent American party has had people who have raised zero dollars, spent zero dollars and not been given a waiver because they did not fill out paperwork. After asking, we know for a fact that a number of people on the same list who did not fill out and turn in paperwork did receive waivers, but the Independent American people did not.

Members of the Independent American Party did not receive due process. Everything went through the Office of the Secretary of State, which is not a good thing. We have a member who ended up paying a $25,000 fine for not filling out paperwork when she raised no money and spent no money.

I am concerned; our party is concerned. Five thousand dollars for each violation can add up quickly. Three times the amount is at issue in a civil action. I bring this concern to your attention. I have documentation to support my concerns.

Chair Spearman:
You made a statement about a significant amount of money. Do you have evidence that you would like to submit?

Ms. Chapman:
I do not. I will contact the member and try to get the information.

Chair Spearman:
You have made a statement, at least by implication, that could impugn the integrity of some of the people associated with that, so if you can obtain that information and get it to our Committee secretary, I would appreciate it.

Ms. Chapman:
I will send you documents (Exhibit E).

Ms. Hansen:
I would like to address sections 4 and 5 on the $1,000 reporting requirements.

We used to have freedom of speech. One does not have freedom of speech anymore unless you have money. We have less ability to participate freely because of so much regulation through the Office of the Secretary of State.

I listened to a biography of Thomas Jefferson, and I was thinking how laws may have been implemented against him when he was running against John Adams for President. Jefferson would be guilty because he hired James T. Callender to write editorials and other things to attack John Adams.

No matter how many laws we have, it will not force people to be honest. We will have no freedoms left if we continue to make draconian laws. It does not matter to me if Nevada scored low on a national list. Has there been a real-time problem in Nevada regarding these issues that this is meant to address?

We now have to report five times. Section 5 and section 6 indicate reporting is required every time you receive over $1,000. How many reports is that? It will not be many reports for me, because I did not get many donations over $1,000. Your opponent or the news media is the one who is really interested. Let us be honest about that; it is not the public. My opponent had dozens of donations over $1,000, so is he going to have to do dozens of reports every time he gets a donation over $1,000? Well, that would be good. It would keep my opponents

busy and help me have a better chance of winning. It is preposterous. We already are reporting five times; it was increased by two. Now we have dozens of reports for major candidates who receive over $1,000. I guess they can afford accountants. My friend helps me as a secretary. I certainly do not have an accountant nor does nobody in our party. Having to hire an accountant for a campaign takes away money that should be spent on free speech.

Even I would have to do more reporting under section 6 on the issue of reporting each expense incurred after $1,000. Every time you place an ad with a major newspaper, radio or television station—every one of these has to be individually reported. You could end up doing dozens, maybe even 100 reports. Every time you contract for a mailing, pay for postage or do something, you will be creating another report.

Who in the Office of the Secretary of State is to follow up on these hundreds and thousands of inbound reports? And this will make us more honest?

There is a way around a law if you want to get around it. People would say, how much can we give you so we are not being reported? They would give me $999. For a third-party candidate like me, that suppresses the ability for people to give me money because they do not want to be on a report. These reporting requirements do not encourage participation in the process. They simply oppress minor, challenging and third-party candidates in their ability to participate because they have limited funds.

The Office of the Secretary of State is presenting a number of bills this Legislative Session. Having more regulations and less liberty will not improve the level of candidate running—it might make it worst—nor will it improve government.

I am concerned with due process. I have documents to support this concern. In 2006, I reported on time to the Office of the Secretary of State the first, second and third reports. During that time, I did not receive notice from the Office of the Secretary of State that there was something wrong with my reports. In May of the following year, I received a notice that I was being fined $15,000, with no explanation enclosed. I called and asked, but I was never given the opportunity to … . We have a situation where people who may not be in one of the favorite parties may have an undue burden placed on them, like what happened to me, and not be notified of a problem until they have a

$15,000 fine. We are concerned because there is not any due process in the Office of the Secretary of State. Under these rules, you do not have the ability to defend yourself, to bring forth the facts in the case. There is little leeway in the law.

By these rules—especially these reporting requirements, my concern is that more people will become discouraged about participating in the process, and it will not improve the level of our honesty one iota.

Chair Spearman:
You have asserted there was a significant amount of money you were charged; once again, it might be seen as impugning the integrity of the those involved. I ask you to present that evidence, and Secretary Miller, will you go back into your records and review them.

Secretary of State Miller:
My Office will get you the documents (Exhibit F).

Ms. Hansen:
I have all of it.

Chair Spearman:
If you would provide the records, we will place them as exhibits.

Ms. Hansen:
I have the letters I sent to the Office of the Secretary of State.

Chair Spearman:
I am referring to the letters you received stating you were being fined $15,000.

Ms. Chapman:
I have my responses to it.

Chair Spearman:
Let me say for the record:

> When we [are] receiving testimony, either for or in opposition of a bill, when you make allegations against someone, we have to make sure that is preferenced as such and make sure that we have evidence of the same. That is the only fair thing to do. So if you

are going to make allegations about financial encumbrances, then I would really appreciate it if you would present the evidence as such so as not to impugn the integrity of those involved.

Mr. Madole:
Our concern with this bill is the term public officer. It does not state elected official or candidate for elected office. Public officer, as broadly defined as may be considered, could work all the way down to a municipality's building official and have unintended consequence. Our membership frequently meets with appointed officials or employees of municipalities to form working groups. We have brown bag lunches to exchange ideas. Regarding section 30 that limits a gift to $3—we feel that if we provide a sandwich for $8.29, we now have to figure out how to get the $8.29 from a building official who works in Fernley. I realize this is not the intent of this law, but our legal counsel thinks it could be interpreted that way in a court.

Mary Porter:
The language of expenditure needs defining. I would ask the Office of the Secretary of State to provide a tutorial or seminar in advance of the reporting requirements so organizations, such as those I belong to, know what we should report by definition. Women who run for treasurer in women's organizations are often not CPAs and do not want to make it their life's work to figure out what constitutes an expenditure. Just for an example of confusion, in S.B. 49, page 7, lines 31 and 32 give a definition of reporting requirements for a candidate or group who makes an expenditure on behalf of the candidate or group. Compare that to language from Assembly Bill 48, page 22, lines 21 and 22, where there is a proposed change in the language in NRS 294A.140 from "on behalf of such" to "for or against."

ASSEMBLY BILL 48: Makes various changes relating to elections. (BDR 24-383)

When organizations do multiple things and attempt to figure out what an expenditure is, they do not know if they made one or not or if they have to report it or not. It would be helpful if the Office of the Secretary of State could prepare tutorials or seminars such as was prepared for the nonpaid lobbyists so we know what we are doing. We can make reports that did not list every nickel and dime. An overbroad report is not helpful; we could get fined for one that is underbroad.

Chair Spearman:
As for the allegations made without substantiation, please note they were "alleged allegations" until we receive the information.

Secretary of State Miller:
With respect to the alleged allegations and that we grant waivers to one party and favor certain groups over another is all public record. The Office of the Secretary of State maintains records to whom we have granted waivers. There are no waivers for failure to file contribution and expenditure reports. There are waivers for failure to file a financial disclosures statement. The language in the statute states that in order for us to seek penalties for failure to file a financial disclosure statement, it has to be a willful violation, meaning that you had to intentionally fail to file. That is a high standard to meet, and someone can be granted a waiver for failure to file by sending a letter to our Office indicating he or she did not intentionally fail to file.

With respect to the concerns regarding section 17, the provisions regarding the enhancement of penalties do not apply to the failure to file contribution and expense reports. That fee schedule language is preserved intact. If the report is not more than 7 days late, it is $25 for each additional day. Nothing within the bill language modifies that.

In response to the broad concerns about sections 4 and 5 about what our Founding Fathers would think of this proposed legislation, I firmly believe they would support this aggressively. Our Founding Fathers believed in transparency. It was one of the principles of democracy that led to founding this Country. James Madison said a government that does not give the public access to documents and information is a fallacy and a farce. There was no campaign finance at the time. This is something duly needed.

In response to Mr. Madole, we will work with his group's legal counsel. We do not agree with his interpretation. If someone is given a sandwich that costs $8.50, the elected official who received it, under S.B. 49, would simply have to reimburse the donor for the cost of the sandwich if it was over $3.

Senator Cegavske:
Assemblywoman Gene Segerblom had a bill providing that if all Legislators are invited to an event, there is no disclosure needed except for reporting by the lobbyist. Am I correct that is still in effect?

Secretary of State Miller:
You are correct. Under S.B. 49, that would be an allowable gift for an elected official to receive. The charitable organization may invite all members of the Legislature and may not be a restricted donor, so there would be no limitation on receiving the gifts. Even for a restricted donor, someone with a greater interest than the average public, a couple of exemptions would apply. Section 30, subsection 18 reads:

> If the public officer is a member of the Legislature, food, beverages and entertainment provided at an event or program: (a) Which takes place during a regular or special session of the Legislature; and (b) To which every member of the Legislature has been invited.

If all the members of the Legislature are invited, even if it is from a restricted donor, you are allowed to receive that gift.

Chair Spearman:
I will close the hearing on S.B. 49. I will declare the business of this Committee closed, and we are adjourned at 9:26 a.m.

RESPECTFULLY SUBMITTED:

Mary Moak,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE:

EXHIBITS				
Bill	**Exhibit**		**Witness / Agency**	**Description**
	A	1		Agenda
	B	5		Attendance Roster
S.B. 49	C	2	Secretary of State Ross Miller	SB 49 – The Aurora Act
S.B. 49	D	2	Secretary of State Ross Miller	Letters of Support
S.B. 49	E	18	Independent American Party	Documents relating to Carolyn Ann Bauer
S.B. 49	F	82	Scott F. Gilles	Documents relating to Janine Hansen