

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON LEGISLATIVE AFFAIRS

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
May 19, 1981

The Senate Committee on Legislative Affairs was called to order by Chairman Eugene Echols, at 2:10 p.m., Tuesday, May 19, 1981, in Room 243 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Gene Echols, Chairman
Senator James I. Gibson
Senator Thomas R.C. Wilson (arrived at 2:20 p.m.)
Senator Melvin Close (arrived at 2:20 p.m.)
Senator Jean Ford
Senator Sue Wagner

GUEST LEGISLATORS:

Senator Lawrence E. Jacobsen

STAFF MEMBERS PRESENT:

Betty Nader, Committee Secretary

SENATE BILL 10--Revises provisions for registration and reporting of lobbyists.

Senator Jacobsen spoke to this bill, which he said was taken over from the Secretary of State. He reported that since the beginning of the session from the total state 487 lobbyists had registered, and around 157 persons had paid the \$50 fee. Since others had failed to pay the fee he suggested the committee determine a method of repayment to the 157 persons. He said the cataloging of lobbyists had been successful; and without this bill they would have to devise some method of refunding the money.

Senator Wagner asked if this were the most critical point of the bill. He replied that no one had challenged the payment of the \$50 promoted by the Legislative Commission, and there were no guidelines other than those provided by the Secretary of State.

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Senator Ford asked for an indication of the cost to administer the law and Senator Jacobsen replied he did not have the figure, but the only probable cost would be the salary of the one young man who had handled the registration and the paper required since the session had begun.

Senators Wilson and Close arrived.

Senator Ford mentioned the additional cost of the badges. Senator Echols asked for approval of the language of the bill, and Senator Jacobsen felt it might be improved. He said Mr. Palmer felt this was a nuisance, but he had disagreed in that it was a good step to determine who the lobbyists are and to cataloge them for research reasons.

Senator Echols thanked Senator Jacobson and closed the hearing on Senate Bill 10.

SENATE CONCURRENT RESOLUTION NO. 54--Directs legislative commission to study provisions of Nevada law governing access to public books and records.

Mr. Larry Struve of the Attorney General's Office, stated his office gets a number of requests from state agencies to advise them of the legal requirements to provide public access to the various documents contained within the official records of public agencies of the State of Nevada.

He explained they get virtually hundreds of requests per year and his administrative assistant gets between 35 and 50 requests a month from members of the press who have not had access to records, and need their assistance.

Mr. Struve stated the prison deputy gets 30 to 40 requests per month from the prison administration to determine whether prisoners or friends or family of prisoners have a right of access to records maintained in that department. The Commerce Division receives a number of requests; the Department of Motor Vehicles receives 500 requests per week for access to records. The Department of Human Resources has about 15 requests a month, not including the Welfare Division and the Mental Health and Retardation Divisions, which obviously have records to which people want access. As a result of these requests his office tries to interpret the meaning of the current law, NRS 239.090, which they find difficult to interpret.

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Attorney General Bryan has had occasion to write a number of informal opinions with respect to specific requests, and in December of 1980 he made this statement, which was generally reported throughout the state: He found the current Nevada public records law very difficult to interpret because no definition is provided by statute, nor has the Nevada Supreme Court had occasion to interpret and provide directions, in terms of what is a public record. He said each case must be researched individually and this is tremendously time-consuming. Case law varies nation-wide as to definition of public records.

As a result of their frustration, he said they had set up in their office a committee composed of many of the deputies who deal with this area of the law and they had discussed the problem. It was felt earlier in the session they should put together a discussion bill draft to help with understanding of the scope of the bill. The discussion draft had been distributed throughout the state to members of the media and to those who are interested in this question of right of information or right of access to information, and had received a number of helpful comments in return. In circulating this discussion draft, they discovered this was a fairly complex area, and there are some very strong interests that are affected by any substantial revision of the records law. On the one hand there is a very strong interest in a freedom of access to public information (meaning information contained in a public office). Any attempt to unnecessarily restrict that freedom will run counter to those interests.

On the other hand they found there are some very legitimate rights of individuals and their privacy, and information contained in records which go to the heart of what has traditionally been used as part of their privacy rights. Disclosure of this information to members of the general public could subject the person disclosing it to liability. Because of the vagueness of the current law and because the current law only provides for criminal penalties, if there is a violation, there is no middle ground between prosecuting someone for improperly refusing to disclose information and not providing access. It was found to be a very unworkable law and should be reviewed with great care and a proper bill presented at the next session so the problems can be resolved.

He stated they had been unable to find case law in Nevada which would help in interpreting the term "public record." They had uncovered an opinion by Frank Daykin, Legislative Counsel, suggesting the current in the law is given a very narrow, restrictive meaning. If they understand the thrust of Mr. Daykin's opinion,

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the term public record refers only to those documents which are required to be made available for general inspection. In this category are deeds, recorded and available for the world to see, you might have marriage or death certificates intended to be made available for public inspection. Mr. Daykin's opinion suggests that other documents contained in public offices would not be the public record within the meaning of that statute.

In addition, conditions exist where there is a substantial body of case law outside Nevada, which indicates that some records, even if you characterize them as public records, still cannot be disclosed because of the confidential information contained in that information, and you would be invading someone's personal privacy to release it. Basically, there is a difficult situation facing public officials in the state of Nevada, who, when asked for access to a particular document have to engage in some guesswork. They must determine the request is directed to a public record. There they have a statute that does not define what a public record is, and the few existing opinions require great research to determine whether there is a public record within the meaning of that statute. To guess wrong and refuse to disclose, they could be subjected to prosecution under NRS 239.010. This might raise the defense that they believed there was an implied exemption in the law because it contained some confidential information, but there is no guarantee. It would suggest to the committee in the case of Dunphy vs. Sheehan, decided in 1976 by the Nevada Supreme Court indicates that when there is a statute dealing with the criminal penalty, it requires the individual who would be subjected to that criminal penalty to guess the meaning of the statute as you have an unconstitutionally vague statute.

Accordingly, he said, it is difficult to enforce even what the law is which is currently on the books. Mr. Struve left a copy of a summary of his remarks for the record. (Exhibit C) Also attached to the letter, is a copy of a discussion draft they had circulated to members of the information media and other public interest groups on this subject, which he wanted to make a part of the legislative record. (Exhibit D) While it was not his purpose to ask consideration of the draft, they wanted to indicate their attempt at the staff level in the Attorney General's office to try to address three things they believe the study committee should address: 1) Clarify by means of definition what is a public record under Nevada law. 2) To insure the right of public access to those public records by providing a procedure other than criminal prosecution for giving someone access who

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feels he has been improperly denied. This might involved mandamis type of proceedings or a provision which requires public officials to specify where in the law he can withhold access to that particular document. 3) To clarify the exemptions in our public records law so as not to invade privacy and subject public officials to libel suits or other civil actions for improperly releasing confidential information. He noted there were a number of persons present to testify to the bill. Basically, the information they had received was that the media was very pleased at this approach because they thought the law was complex and should be carefully reviewed, and any revision carefully drawn, which seems to require an interim study. This substantiated his election to come and support Senate Concurrent Resolution No. 54. He asked for favorable consideration of the legislation.

Senator Echols asked for forther testimony in favor of the resolution.

Dorothy Kosich, a working journalist in Carson City and a member of the National Freedom of Information Committee and the Society of Professional Journalists, testified. She stated the Society is made up of 35,000 journalists who are publishers, editors, and reporters, who represent people from the Los Angeles Times to herself and the Carson City Appeal. She briefly read a letter of support from her president and made some personal comments. (Exhibit E). Dorothy added that she frequently had to use the Federal Freedom of Information Act, which does work for the benefit of the press, but as Larry previously stated, more importantly, it does work for the benefit of the public, which was her main concern. They have access to their files and their records. She did not know whether this applied for the state as well.

She related that a couple of months ago she had called a couple of state agencies to find out what they knew about which records could be made public. She noted the prisons were very well informed about which clients' records could be seen. When she had spoken with the Department of Human Resources, she found there was confusion as to release of files. This makes her job more difficult, she pointed out, because it requires delays, but on the other hand, she had to consider the client. In the event the wrong records are released to the press, this could be very negative, also. Dorothy stressed that legislation is needed, not only to help the press find precise bodies of laws they can look at with directions on these matters, and hopefully setting a time limitation on it, but it might give the public a clear understanding of their rights without confusion on the part of officials

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when they desire to get information about themselves. She strongly urged the committee to consider appointment not only of a committee but also of journalists and members of the public for the study.

Senator Echols asked for questions from the committee:

Senator Wagner questioned the text of the resolution, which says that the commission shall seek assistance of representatives of interested governmental agencies and, specifically mentions the Nevada State Press Association and other associations representing Nevada network news. She noted that Dorothy had mentioned Sigma-Delta-Khi and asked what kinds of associations she would recommend be included. She also mentioned the Society of Professional Journalists and the Investigative Reporters and Editors organization, who have a keen interest in this subject. The Nevada State Press, she pointed out, is more a publisher-oriented type group, who are actual news gatherers and that is the difference. She suggested members of the public serve, as well as those of radio and television. Senator Wagner asked whether they have an association. Miss Kosich recommended they contact Lee Hirshman of KTVN in Reno, who is active in that organization.

Senator referred to Miss Kosich's testimony about the results should she be given wrong information. He pointed out the continual discussion which exists about the media and the government, saying he assumed from her comments there are certain areas of public affairs which warrant privacy. Dorothy replied in the affirmative and cited the example of searching out certain types of medical treatment received by persons who have rights of privacy in such cases.

Senator Echols felt this should apply to public officials, as well. He asked whether she thought it possible to develop information and policy or procedure to resolve that conflict. Miss Kosich stated the National Ethics committee and the code of ethics states you shall not violate someone's privacy. However, it is left to the interpretation of journalists as to meaning. She said there is an effort being made to determine how far the press can go in violating someone's personal rights. She suggested that as a public official a person gives up the first amendment rights and a few others as well.

Senator Echols asked whether she had any suggestions for change in the language. She asked to add the fact that members of public may be allowed to work on the committee, such as those of the

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League of Women Voters, the ACLU, etc. Senator Echols said they might not be looking at a committee, but a legislative commission study to seek the assistance of others, but they would receive input from various agencies, as opposed to forming a committee. Miss Kosich noted that in other studies, such as child abuse, they had persons who were committee members and others in an advisory capacity who sat in on the hearings, like the PTA. This was her suggestion.

Chairman Echols asked whether Larry Struve had any question on the wording of the bill. Larry replied that he was very satisfied with the wording, but he hoped for action on the bill.

Pete Kelly, representing the Nevada State Press Association, stated their support of the resolution, and if the Commission elects to make the study he pledged their 100 percent cooperation.

Senator Echols closed the hearing on Senate Concurrent Resolution No. 54.

(Senator Gibson left the meeting at 2:35 p.m.)

Chairman Echols called for a hearing on Senate Concurrent Resolution No. 57--Directs legislative commission to study state system of telecommunications.

Mr. Jim Carpenter was called to speak, and Senator Ford asked to speak as a primary sponsor of the bill. She stated she had requested this resolution because of the importance of current technology. She related that in her service on the Futures Commission she had begun reading on futures planning and the works of the World Futures Society and various publications indicating the advanced communications, particularly in telecommunications. She felt this would have advantages in the field of libraries. She said her idea was to coordinate and evaluate the use and acquisition of systems of telecommunications by state agencies. This would include the problem of communications between state agencies, and federal state and local agencies with the public. The advisory committee might be composed of representatives of both state agencies and local government and those in private enterprise with expertise in technology. She noted her awareness of the state communications council that handles such systems as microwave and other communications aspects, which she suggested become a part of this commission. She welcomed comments by others and distributed examples of two kinds of innovations in other states, "Telecommunications Activities Report."

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Senator Ford particularly mentioned the state of North Carolina, which had done a lot of work on telecommunications. She stated one of the handouts indicated the conferencing capability of this system in North Carolina, which is open to all kinds of groups to help communications throughout the state. She had participated in the operation of the united program and seen it operate in Northern Nevada. She felt this might be helpful for legislative activity and executive branch activities without the necessity of state-wide travel.

Senator Ford pointed out the other item from the State of Arizona, which is a computer information system of communications. She felt a committee should investigate the different means of communication within the state to make this body more effective, and felt it could become cost effective relating to energy and the budgetary situation. She further suggested it could bring audio and visual cost savings, delivery of correspondence by electronic mail, utilizing word processing similar to computer equipment, transmitting information generated by measuring devices, numerous educational training programs, as television and video tape equipment and improved access to state government by designated telephone lines for information services.

Senator Echols inquired whether this was private or government enterprise, and Senator Ford responded this is done through the state agency on telecommunications. Senator Ford stated she had not looked into the details of charges and cost information as it relates to the North Carolina group operation, but there was a full report, as they have a state agency to handle this project.

Senator Gibson returned to the meeting at 2:45 p.m.

Mr. Jim Carpenter, State Civil Defense Communications Officer spoke to the committee. He said his agency is charged with the emergency planning with communications, and they are talking more about electronic types of equipment. He read a couple of paragraphs of one of the Governor's executive orders, given April 10, 1972: "Wherein an efficient and reliable communications system is vital to security and welfare of the state during times of emergency and in the conduct of regular business of the state, and that such essential economy can be effected by the joint use of consolidated communication systems by department agencies, subdivisions of government agencies and local government. Since the State of Nevada does not have such communication system, and furthermore, since no execution of the legislative action has been

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taken as a result of numerous communication studies completed in the last decade, which is simply a recommendation for the state's communications problems." He felt progress had been made since there is a state microwave system, which is tied in but not used too much because it is too expensive, and no money to use it, the state agencies still operate independently of each other. Should it come to wartime disaster or other disaster Nevada would become the No. 1 target area and is vitally in need of a system to tie everyone together. He pointed out that technology exists today, micor-computors, and such, which has advanced in what is called smart radios but Nevada is still communicating as it did in 1972. He stated that one could call all over the state with a microwave system.

On the subject of disaster preparedness, Mr. Carpenter did not recommend another study, but that the Legislative Commission employ their own consultant working with them directing, and lending expertise. He suggested a combination of persons who know Nevada and its problems and the outside expertise. He suggested with the passage of the resolution provision be made of \$35,000 or \$40,000 to employ a consultant.

Jeannie Goodrich of the Nevada State Library spoke in favor of Senate Resolution No. 57. She thanked Senator Ford for her contribution, as she is familiar with the work of libraries. She stated many forms of telecommunications devices are in use today and provide alternatives to traditional modes of communication. She mentioned electronic mail, document delivery through telefacsimile, an alternative to photocopy through facsimile and electronic mail and an alternative to the telephone through electronic mail and alternative to travel through tele-conferences and electronic mail, etc. She noted that the line charges are precluding the use of these technological facilities to the full.

Ms. Goodrich advised they had concluded a study of automation libraries throughout the state of Nevada and found the optimum situation would be to link all libraries into on-line situation. which would cost \$25,000 a year just for telecommunications charges to link Elko, Las Vegas and Reno. The rural areas which need this kind of communication are still left out. She said if the study is undertaken the question of rates of the National Telecommunications Act would have to be addressed because this is the problem area in linking together libraries and other state agencies.

Senator Echols called for questions and asked to consider the next item.

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ASSEMBLY CONCURRENT RESOLUTION NO. 33--Nevada Occupational Diseases Act.

Mr. Dan Thompson, Assembly District 21, stated he favored the Resolution No. 33. He felt the resolution was self-explanatory and had not substantially been changed from 1947. He felt there was merit in reviewing this field. He cited NRS 617.440 which states, "when the disease was contracted within 12 months previous to date of disablement.." He stated in the case of asbestos and some PCS's now appearing everywhere, that type thing does not show up for 20 and 30 years later.

Senator Echols asked whether he was the prime sponsor of the resolution. He replied it had come from the Committee on Labor Management, but he did not know the name of the individual responsible.

Senator Ford asked him to outline what should be done in the event the study is authorized. Mr. Thompson related that there had been many changes even since 1961. The law provides for contracting the disease within 12 months after disablement. He said a person might develop a problem with asbestos as much as 10 or 20 or 30 years later. He also said the PCB's being stored in a person's fatty tissue acts like a time bomb. He cited an article from Reader's Digest. A person had died of brain tumors and they had thought he was epileptic, but had discovered he had brain cancer. After a study they found PCB's in the materials he worked with, and he had worked on the same job 26 years.

Senator Ford asked for direction as to the best way for the committee to approach this problem, whether staff should be involved, or some department of the state government, or a knowledgeable consultant, who understands these matters. Mr. Thompson thought the working group should report to the Legislature.

Mr. Thompson added that the language of the statute was confusing defining occupational diseases and the time contracted, dealing with compensation and disability and death and a number of other items. He felt the language should be changed.

Senators Wilson and Close left the meeting, temporarily.

Mr. Joe Nusbaum, Nevada Industrial Commission, supported the study proposed by this resolution. He said there are some serious

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statutory problems in occupational diseases, which are embarrassing when they receive a claim and find it almost impossible for the claimant to qualify under present law. He felt the law was out of date and not practical and there was need for a specialized type of study. He noted other states have recently looked into this area, and might be helpful to a consultant.

Senator Echols asked Mr. Thompson if he had suggestions about the proper type of committee for this study. He felt the staff or legislators should be involved after the basic work had been done by a consultant. He said there would be limitations on staff work because of the specialized area involved.

Senator Echols asked for testimony on two identical resolutions, SENATE CONCURRENT RESOLUTION NO. 25 and SENATE CONCURRENT RESOLUTION NO. 42--Directs legislative commission to study grand jury system in Nevada.

Senator Wagner stated someone was present to speak to these items and she had passed out the American Bar Association standards which are addressed to this resolution.

Mr. Elmer Rusco, President ACLU, Nevada, stated he felt it was an appropriate subject for an interim study, as there were some problems (civil liberties) with the way Nevada's system operates. He mentioned the national standards and a national scope for performing grand juries with which the ACLU has worked. He said he would endorse and support this resolution.

Mr. Bill Curran, Attorney, Clark County District Attorney's office, stated they have no opposition to the legislative study and would certainly cooperate with a study if the administration of criminal justice can be improved in this area.

Senator Wagner asked whether he would comment on the resolution. He replied he would not oppose the study if there are resources available to examine ways beyond what they have proposed and what is embodied in Assembly Bill No. 447. In answer to Senator Gibson, Mr. Curran stated there will be no fiscal note to the state; money would come from bond posted by criminal defendants, the concept being that criminals will be paying the compensation. He said this would be statewide, based on the experience of 29 other states and the Good Samaritan, which is already in Nevada. The anticipated total yearly cost is somewhere short of \$250,000, with the money coming from bail bonds. He did not anticipate opposition from receipt of the money; and certainly not from Clark County.

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Senator Echols called for additional testimony on any of the bills on the agenda.

SENATE CONCURRENT RESOLUTION NO. 48--Directs legislative commission to study the potential uses of volunteerism in non-profit organizations and of volunteer enterprise in Nevada.

Mr. Bob Sullivan, Northern Nevada Corr Center spoke on this resolution, stating he is involved in volunteerism with senior citizens programs, employment programs, and others. He asked the goal of the bill, stating it give a viable role to the senior citizens who have the faculties to get out of the home and into the mainstream of day-to-day life.

Senator Ford replied it looks at two major issues: 1)the potentiality for meeting social needs through the cooperative efforts of private business and non-profit organizations and volunteers. 2)Subsection II takes a look at organizations which have taken some seed money of one fund or another and assisted in forming business enterprises where people go from being volunteers to something more substantial.

Mr. Sullivan stated if they are to become involved in the bill, they have a transportation program operating in Clark County, and he mentioned the RSVP Director, Janet Ayers. He mentioned a concern with Line 71, Page 2, Section 8, because for any program there must be some sort of funding for direction. He stated they are now funding senior citizens' centers, and there are regulations and guidelines in operation of such as far as financial responsibility. Senator Ford asked him to speak with Senator McCorkle on the dark side of this bill, since he had asked about a dark side.

Senator Echols cited a present need for volunteers: He stated there are 1600 prisoners in this state, 80% of whom have no outside contact, no friends or communications. He said that even if the senior citizens would set up communication they could make a great impact on the prison population in the future. He also felt this had great potential in terms of rehabilitation for the prison population.

SENATE CONCURRENT RESOLUTION NO. 65--Directs legislative commission to study desirability of allowing insurance coverage for workmen's compensation through private insurance carriers.

Senator Wilson stated this resolution had been introduced through

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private insurance carriers, by the Senate Commerce and Labor Committee. He said they had been deeply involved in the legislation, as a result of committee work on the subject of three-way insurance. They had been involved in hearings on the Nevada Industrial system this year as well as the past two sessions. Three-way insurance provides insurance for the private carrier, as opposed to the employer who is self-insured, which is the case under the state system of all Nevada employers. Each time this plan has been turned down for lack of time and information as to whether the Nevada market is large enough, and whether the experiences in other states would be acceptable here. At the last session they had inaugurated two-way insurance, the self-insuror. He felt the time had come to reach a decision on the three-way insurance. In lieu of passing the bill this time the committee recommended this resolution. He stated that insurance is a priority affecting every working man in the state, maybe every employer in the state and a large segment of the economy.

Senator Wagner recalled a study on some aspect of this, where they had looked at both two-way and three-way insurance, chaired by Joe Dini. Senator Wilson agreed this was a hearing in the interim study of the 1977-78 session.

Mr. Jim Joyce testified, recalling the interim study of 1977-78, out of which had come self-insurance and the two-way system. He stated frankly that he did not believe the insurance industry of Nevada was prepared at that time to answer some of the questions that had come up. As a result, the two-way and not the three-way system had come to being. He felt the present interim study was justified because they have the answers now to lead to the drafting of a proper bill to deal with at least debating the policy questions involved.

Mr. Joyce stated that he represents the Nevada Independent Insurors Association. He noted the biggest problem they have had in dealing with the policy question has been inability to obtain a good draft of legislation. The bill, itself is probably 80 pages long. Previously they had received the bill on the 80th day; this time they received it earlier, but with many imperfections in it. They could either drop the bill into the hopper in its imperfect state or send back to drafting and maybe get the bill on the 100th day. If imperfect, it was open to attack.

Senator Ford asked if persons serving on the commerce committees of the two houses were the logical persons to do this study.

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Mr. Joyce said there were two schools of thought on interim committees, and he did not know whether the members of the Commerce Committee would want to hear this bill again. He felt the legislators who were familiar with general Nevada Industrial Commission policy such as Mr. Nusbaum and others in the audience from the Nevada Industrial Commission, and some persons from the private carriers should be resource persons for input to the committee.

Senator Wilson advised the issues were not limited to sections of the bill, but they had deferred the merits of the draft bill until they could answer the policy questions. He said it is not possible to resolve the policy questions after the bill is drafted and he felt it was sorely needed. He advised the committee to look as a whole to members of Commerce and Labor, as it seemed a waste of time to diversify the work, and it should be carried on by those who were going to be seated on those committees. He believed the issue should have priority as he had studied it and it needs an interim work study. Senator Ford agreed that to include people traditionally on Commerce and Labor Committee would be wisdom so that they might educate the other members of the study commission.

Senator said the present bill is a substantial improvement and that the Nevada Industrial Commission has changed radically in the past couple of years with two-way insurance as a major change.

Mr. Joyce said he had not meant to imply anything, and if a better bill were drafted there would be a better decision.

Senator Wagner left the meeting.

Mr. Joe Nusbaum of the Nevada Industrial Commission read a statement approved by the Commission. (Exhibit E). He said to institute new self-insurance before the new Industrial Insurance system can be initiated would be a mistake. He stated in 1979 the Stanford Research Institute had recommended three-way insurance was not appropriate at that time.

Senator Wilson left the meeting.

Mr. Nusbaum continued. He said Chairman Wilson had asked the advisory board on Senate Bill No. 203 for a position on the three-way bill and could not get a majority together. There was a vote of 4 - 2 against the bill, but the Advisory Board takes action only with 5 members voting the same way. He felt it was somewhat inconclusive. Mr. Nusbaum stated he had served on the board for

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17 months.

Senator Echols asked whether public relations might help settle the problem of three-way insurance decisions. Mr. Nusbaum replied he thought the advisory board had done a good job in the interim, had made good recommendations and good legislation which had cleared up some of the minor irritations. He stated from 1976-78 the Nevada Industrial Commission had a 75 percent increase in workload covering claims of all natures, medical payments and all, with no increase in staffing. He said that self-insurance had helped to alleviate this in a sense because now they will have the staff to do a good job of handling policy-holders' claims. He said there had been some administrative problems, and he believed the reorganization bill the Senate had acted upon would help to relieve them of the regulatory business and make the Nevada Industrial Commission an insurance carrier. On the other hand, he pointed out that with a fund of over \$3 million and handling 75,000 claims a year causes problems which may need legislative attention.

Mr. Richard Staub, Staff Counselor for the Insurance Commissioner, and Acting Chief for Workmen's Compensation Section, stated he had sat through the hearings on Senate Bill 203 this session. He said there were still a lot of unanswered questions asked by individuals and committee members. Therefore, he was of the opinion that a study committee would be appropriate. He said they, of the insurance commissioner's office, believe that competition always works to the benefit of the individual policy-holder and of the public, and they feel a three-way system might provide additional competition, and would support the resolution.

Senator Echols closed the testimony on Senate Concurrent Resolution 65.

SENATE CONCURRENT RESOLUTION NO. 56--Directs legislative commission to conduct interim study of planning capability and future needs of Nevada prison system.

Senator Wagner stated this bill was introduced by Senator Wilson and herself as a result of the demise of the bill dealing with an oversight committee of the prisons. She understood a bill had passed that morning appropriating money into the Public Works Board for planning, which she suggested incorporate planning for the Nevada prison system.

Senator Ford asked if there had been an discussion by members of the Finance Committee about having someone work with the Public Works Board in carrying out their charge. Senator Echols replied

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that he had requested consideration of some alternatives, using part of the fund for this purpose. He stated the prison system is a very complex issue in Nevada, and very difficult to deal with intelligently, which has been studied and committee'd to death. He said it was hard to determine whether to curtail some of the studies and go to an effective management team to come up with conclusions to be adopted.

Senator Ford stated that since money is being appropriated to a body whose job it is to build buildings in the State, she believed they should look at former studies and examine something besides where the next building will be placed. She recommended adopting the resolution and directing the group which is appointed to confer and work with the Public Works Board.

Senator Echols related that the bill passed that day had included a budget for \$50,000 for consultants; with the rest broken down in various other aspects. The primary thrust of that legislation had been to effectively come up with a plan for prisons--as to how many and where. He also felt they should look at the alternatives in their decision-making process. Senator Echols advised that in the justice system inroads are being made with prisoners rehabilitated daily, becoming worthwhile citizens, taxpayers and not returning to institutions. He could not accept the philosophy of building another institution every two years in the state of Nevada without considering a better alternative.

Mr. Elmer Rusco, ACLU, stated they had been following the interim studies of prisons for four years and he was convinced of some of the statements made here. He repeated that simply building more institutions of the traditional type would not solve the problem. He said prisons are affected by decisions made by prosecutors, judges and juries and the ones who got there by parole boards. He was in favor of the suggested study for the reasons brought out in the meeting. He stated those making sentencing decisions have no systematic information about what happens in prison systems now, like problems of incarceration and others, and that one level is not related to another. He endorsed the study and suggested a total look at the criminal system which affects very much the question of prison population.

Senator Echols invited comment from the audience.

Mr. Paul Rosenbaum from Michigan, stated it was absolutely ironic that he had walked into this hearing. He said he had just arrived by plane, and was a former chairman of the judiciary

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committee for the State of Michigan. He had dropped in to say hello to Senator Close. He said he was no longer chairman of the judiciary committee; but had gone out to make some money. He related he had been in control of the criminal justice system for the state of Michigan for six years and actively involved in this issue. He offered two statements. In 1974 he had proposed the same type of oversight committee, which his appropriations committee friend had refused. As a result, in 1976 they went to a \$400 million bonding proposal for the state of Michigan to build prisons. The bond issue had failed. The people said yes, we want to build prisons and stop crime, but we don't want to pay for them. He suggested an oversight committee in charge of all other committees and structures to study the whole situation. The final outcome in Michigan, he said, had been a Supreme Court ruling last week that Governor Milikin had to release 1200 prisoners before their time because of the overcrowding conditions of the prison system. Mr. Rosenbaum stated Michigan had the most miserable system he had ever seen. In his opinion, they had failed in 1974 to perhaps spare the state and correct the situation. He said he hoped the resolution would be adopted and that Nevada would do better than Michigan had done.

Senator Ford welcomed the gentleman, along with Senator Echols. She said problems are the same all over the United States. Mr. Rosenbaum explained that the largest prison system in the world was located 40 miles from his home, which is an experience in itself. He stated that Mr. Perry Johnson, Director of Prisons has probably one of the worst jobs imaginable and it is now an intolerable situation in Michigan.

Senator Wagner added that she wished Mr. Rosenbaum had been present in Senate Judiciary Committee when they had voted on that bill. Senator Wagner asked that the Chairman name the committees which are now studying prisons, and Senator Ford replied they are now completed. Senator Echols advised there had been seven or eight committees on this work in the past two years. He said at present there is an Assembly Ways and Means Committee on this subject, with a subcommittee and full committee, the Senate Finance Committee and the Governor working with Mr. Enamoto.

Senator Wilson asked that the record show his strong support for this resolution.

Mr. Rosenbaum said he hoped Nevada would never get to the point

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where they would have to release 1,000 prisoners to make room, as they had done in Michigan. He offered to leave his telephone number and arrange for the committee to speak with Mr. Perry Johnson, who would be able to share his experience in this area. He felt Nevada was in an excellent position to help solve some of the problems they had faced for the past six or seven years.

Senator Wilson stated his support of the resolution, and made the observation that he believes it is important for the legislature to be privy to an analysis of a long-range plan they had been discussing for two years. The prison board met in November and talked about water shortages and three weeks before adjournment had a request for an appropriation to fund those studies. He felt the legislature inherits the problems of a lack of planning, but financial planning is necessary to build facilities. He explained the money committees are now caught in the dilemma of having to fund needed capital improvements within the state bonding capacities, and in some way respond to the Department of Administration and Prisons in the Governor's office. They have recommended needed improvements. He again stated the resolution is essential.

Senator Close asked whether action was going to be taken on bills. Senator Echols replied that Senator McCorkle, as prime sponsor, would like to speak to the committee about Volunteerism.

SENATE CONCURRENT RESOLUTION NO. 48--Directs legislative commission to study the potential uses of volunteerism in nonprofit organizations and of volunteer enterprise in Nevada.

Senator McCorkle asked whether the committee members had concerns or questions and whether they thought the resolution had a low priority and should not be approved.

Senator Echols asked how Senator McCorkle perceived the study progressing, as to his wishes for a staff study, legislators on the committee or how to accomplish the task. Senator McCorkle responded that he would like the committee to come up with specific recommendations having a budgetary impact in 1983. In that event, he suggested the chairmen of both money committees be on the committee. He stated his intent to explore the whole spectrum of volunteer potential and allow the committee to pinpoint the areas most appropriate to use as test cases for 1983.

Senator Close asked for an example of the type of things he felt the committee should study, and what type of recommendation should be made after the study. He said he could not see the purpose of an interim study on volunteerism in Nevada without specific examples of areas needing studies.

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Senator McCorkle explained that the study is not to study volunteers, but the applicability of volunteers to solving problems currently solved by government. For example, Drug and alcohol abuse. At present service is provided by the Bureau of Alcoholic abuse. He said there are several private organizations, successfully dealing with them, like Lancy Street in San Francisco, which is totally non-profit and has a high success ratio for rehabilitation of addicts.

He believed to develop that kind of program or incorporate it into the present counseling program in the state, the committee might determine that community training centers within mental health or mental retardation were worth expanding. Because that is a non-profit type entity, already working with limited government money, it might be the recommendation to expand those programs or reduce the funding or increase funding, he said.

Senator McCorkle further suggested getting into park development with a volunteer non-profit money and labor program to supplement the state program. He felt they could get into vocational programs, entirely outside of government to deal with; problems that legislators are frustrated with, but which they cannot afford. He pointed out that for two consecutive sessions, including this one, they are going to complete neglect any vocational education money as a supplement, but there is a desperate need for it. Non-profit organizations are available in the state now to pick up that slack. This could be an experimental means of inserting all private non-government programs for programs now provided by government, and for which there are no funds, and for which there has been a void.

Senator Gibson left the meeting at 4 p.m.

Senator Ford said Bob Sullivan had suggested senior citizens' programs, and some exciting things which are making them more independent and helping them to continue to be productive (acting as volunteers and in volunteer kinds of programs assisting senior citizens). He said some real exciting joint venture kinds of things are happening, and he mentioned control data, which had done a lot.

Senator Wilson considered rehabilitation kind of exciting, where the shift is from standard institutionalization of patients to neighborhood type facilities which are maybe one-fourth as expensive. (Senator Ford stated a bill had been approved this session to facilitate that concept). Senator Wilson continued

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by saying that programs are changing radically, especially in Henderson, but easily given to volunteer programs to assist which makes a lot of sense. Senator Echols added that this is also happening in the prison situation, where released prisoners are being moved into home situations to keep them out of the former environment in the future.

Senator Close stated there is so much potential that is not known to legislators, which helps focus potential on the potential. Senator Ford felt they should look at the displacement of all social programming due to the latest events in Washington.

Senator Echols said he had encountered on an airplane a person from Utah, formerly in charge of the Mental Health, Mental Retardation program in Utah, who had subsequently taken charge of the LDS program in Las Vegas. He said they had undertaken a pilot program where state agency programs were required to be supported by volunteer support, or not considered at the Legislative level. He said agency heads and staff persons were not testifying before the legislature; if they couldn't get volunteer support for their programs they were not being funded. He said this is working quite well. When an administrator who is heading an agency must enlist three volunteers to support his position, he receives an education along the way. He asked whether the committee was satisfied with the structure of the resolution, as drafted.

Senator McCorkle stated he had made specific recommendations to Senator Echols, who had stated it was the function of the legislative commission to dictate who would serve on the committee.

SENATE CONCURRENT RESOLUTION NO. 63

Betty Donlevy asked to speak to this resolution as a representative of the Coalition for Affordable Energy. She said the Coalition would like to go on record as being in favor of the interim study as far as franchise taxes are concerned. They consider this a hidden tax being paid by the people, who are very resentful of this tax. They feel the study is very needed.

Senator Wagner asked whether she thought there was enough substance for a whole committee to look at the one franchise tax in one issue. She said there had been a study on the Public Service Commission in a broad sense at the last session of the Legislature. This is looking at franchise taxes, opposed by local governments, only, which is the only subject matter delineated in the resolution.

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Betty Donlevy stated there seemed to be a great inconsistency in this legislation now. She said Reno is now considering a repeal; Sparks is saying it is vital and they need the money. She did not believe Elko collects anything. She stated she had calls from people all over the state, working with initiative petitions, and who complain they have a franchise fee or tax (called a fee but in reality a tax). She noted a lady in Mineral County had collected almost 1,000 names around Hawthorne protesting the franchise fee, and she was just deducting hers from her bill before she sent it in. Ms. Donlevy felt the resolution merited a study.

Senator inquired whether she was acting as a volunteer, to which she replied in the affirmative, stating she was a paid consultant working for Randolph Townsend with Andrew Barbano. Randolph Townsend is Chairman of the Coalition for Affordable Energy. This is a trio representing 40,000 names appearing in an initiative petition drive. Mr. Townsend had funded that non-profit organization and he had filed the proper papers, she said.

Senator Echols asked for further questions from the committee.

Chuck King, representing the Central Telephone Company, stated he had not noticed this bill was coming in so was unprepared with figures, but wanted to share information which he had. He said in talking about just pure franchise tax, utilities in Southern Nevada had paid other taxes just like the franchise tax and in the City of Las Vegas they pay a business tax in lieu of the franchise tax, which is 5%. He said that 4% is passed off to the customer and they absorb one percent of that. He said that tax generates an initiary which generates about \$750,000 for the City, and in the county there is a business license tax of 1%. There are franchise taxes in Henderson, North Las Vegas and Boulder City. He said the subject just addresses franchise taxes and will not cover all utility taxes that are being paid, but he wanted the committee to be aware of their taxes which are around \$1 million a year.

Senator Echols asked whether all testimony had been presented. He suggested going through the agenda, rating the priorities of various studies and deciding what action to take.

Senator Echols suggested a work session on Thursday, taking no testimony, allowing him to bring the needed information. Senator Ford agreed that would be fine on the studies, but she felt they should process the Senate bills. Senator Wilson agreed. She said there were three study resolutions in the Senate pertaining to transportation. Senator Echols agreed to discuss this with

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the chairman immediately.

Senator Wilson asked for action on Senate Bill 10, with the amendments. Senator Wagner stated she would object to removing the language in Page 2 requiring lobbyists to file. She said by removing the language they have to file at the end of the session. This is a substantive policy change which she was not willing to make. Senator Gibson then suggesting removing Section 5, but leaving the remainder of the language to allow the procedure to stand.

Senator Close disagreed with the notice of termination to be given both to the director and the Legislative Commission, Page 2, Lines 12-13.

Senator Gibson moved to delete Section 5 of the Senate Bill No. 10.

Senator Wilson seconded the motion. Senator Ford asked to retain the language in brackets, Page 3, Lines 23, 24. (Senator Echols asked for action on the motion.)

The motion to delete Section 5 carried, unanimously, by a vote of 6 - 1.

Senator Ford then asked to delete the proposal in Lines 24, 25 on Page 3 and to return to the current language. The list should be available within the county, she said.

Senator Ford moved for approval of the amendment to return to the previous language. Senator Wilson questioned this. Senator Ford did not object to putting both together and saying, "and" (not removing the brackets)

Senator Wagner seconded the motion.

The motion carried, unanimously, by a vote of 6 - 0.

Senator Close inquired why they were removing the language on Lines 16, 17, Page 1. Senator Ford said this had been in the law since the beginning, and she wondered if it had been enforced. Senator Gibson felt it was unnecessary. Senator Close stated corporations are lobbyists, but maybe corporations are not registering. Senator Ford said if the lobbyist represents a corporation they file this to their officer.

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Senator Gibson noted that in looking at half of the corporations it appears they have a dummy set of filing officers. He suggested listing the corporation, stating it makes no difference who are the officers.

Senator Echols suggested leaving the brackets, with the approval of Senator Close and others.

Senator Ford asked to return Section 4 to the current language since Section 5 has been returned to the original language. She said this implies there is only one report. Senator Echols asked whether she meant to delete Section 4, also, and she agreed.

Senator Ford moved to delete Section 4.

Senator Close seconded the motion.

The motion carried, unanimously, by a vote of 6 - 0.

Senator Ford said she had no objections to the language on the top of Page 3, but she asked for more clear definition of the terms or a closer look at the regulations passed last time. She said the bill does not clear up whether the lobbyists should have their \$50 back. Senator felt it did because it gave the commission authority to collect the fee. Senator Echols stated five or six words were imperative as far as Senator Jacobsen's request was concerned, which are "may require fees for registration."

SENATE BILL NO. 10--Revises provisions for registration and reporting of lobbyists. (Exhibit F)

Senator Gibson moved to amend and DO PASS Senate Bill No. 10.

Senator Wilson seconded the motion.

The motion carried, unanimously, by a vote of 6 - 0.

Senator Ford was asked to have the bill amended

SENATE BILL NO. 380--Provides salary and expenses for legislators appointed to boards and commissions of state.

Senator Ford moved for indefinite postponement of Senate Bill No. 380.

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Senator Wagner seconded the motion.

The motion carried, unanimously, by a vote of 6 - 0

Senator Echols stated that Senator Kosinski wished to testify on Senate Bill No. 647, Senate Concurrent Resolution No. 12, and Senate Concurrent Resolution No. 38 prior to action on these bills. These three bills were rescheduled for Thursday, May 21, before the work session.

SENATE CONCURRENT RESOLUTION NO. 34--Requests Governor to designate April 30 as additional Law Day U.S.A.

Senator Gibson moved for indefinite postponement of Assembly Concurrent Resolution No. 34.

Senator Wilson seconded the motion.

The motion carried, unanimously, by a vote of 6 - 0

SENATE CONCURRENT RESOLUTION NO. 38--Amends Joint Rules of Senate and Assembly by adding rule which establishes Joint Standing Committee on Elderly.

Then Senator Ford advised this was one of Senator Kosinski's bills. She asked whether they should also discuss Thursday how to deal with the interim committee question. Senator Echols agreed that could be a part of the work session. They would ask for input from the Assembly on how they will be working. He said he would inquire of Assemblyman Westall concerning this matter.

Senator Ford stated they had sent the Senate a couple of resolutions. Senator Echols felt they were insignificant, except the resolution on the grand jury system. Having indefinitely postponed Senate Concurrent Resolution No. 32, Senator Ford said she was not eager to pass a group of studies, unless persons from the committees were appointed to serve on the commission.

Senator Echols suggested requesting a resume of the studies which had been completed and the results for the committee's information.

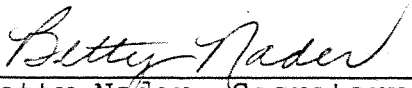
Senator Wagner asked whether action had been taken on Assembly Joint Resolution No. 18, which is not a study committee item. Senator Echols stated funds would be required and as they had been requested to balance the budget, they would consider this bill further on Thursday.

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Senator Echols called for adjournment of the meeting until Thursday at 2:00 p.m., when they would have more detailed information before them. That was to be a work session with the exception of testimony by Senator Kosinski on the three bills mentioned.

The meeting adjourned at 4:30 p.m.

Respectfully submitted by:


Betty Nader, Secretary

APPROVED BY:


Senator Eugene Echols, Chairman

DATE: June 4, 1981

SENATE AGENDA

9:30 a.m.
Posted 5/20/81

COMMITTEE MEETINGS

Committee on Legislative Affairs, Room 243
Day Thursday, Date May 21, 1981, Time 2:00 p.m.

Senator Kosinski

S.B. No. 647--Limits distribution of free copies of and provides adjustable charges for legislative publications. (BDR 17-1698)

S.C.R. No. 12--Provides for continuation of interim study of gaming. (BDR 429)

S.C.R. No. 38--Amends Joint Rules of Senate and Assembly by adding rule which establishes Joint Standing Committee on Elderly. (BDR 436)

Assemblyman Robinson

A.J.R. No. 18--Memorializes Congress to establish a national cemetery in Southern Nevada (BDR 683)

Following for Committee Work, Only

S.C.R. No. 25--Directs legislative commission to study grand jury system in Nevada (BDR 657)

S.C.R. No. 42--Directs legislative commission to study problems of compensation for certain victims of criminal acts. (BDR 661)

S.C.R. No. 48--Directs legislative commission to study the potential uses of volunteerism in nonprofit organizations and of volunteer enterprise in Nevada. (BDR 1133)

S.C.R. No. 54--Directs legislative commission to study provisions of Nevada law governing access to public books and records. (BDR 2030)

S.C.R. No. 56--Directs legislative commission to conduct interim study of planning capability and future needs of Nevada prison system. (BDR 1868)

S.C.R. No. 57--Directs legislative commission to study state system of telecommunications. (BDR 1690)

S.C.R. No. 63--Directs legislative commission to study franchise taxes imposed by local governments on public utilities (BDR 2103)

S.C.R. No. 64--Directs legislative commission to study procedures used by department of taxation in central assessment of property (BDR 2105)

Committee on Legislative Affairs, Thursday, May 21, 1981, Room 243
2:00 p.m.

S.C.R. No. 65--Directs legislative commission to study desirability of allowing insurance coverage for workmen's compensation through private insurance carriers. (BDR 2062)

S.J.R. No. 39--Proposes constitutional amendment to accommodate separate bills amending same provision of law. (BDR C-1891)

A.C.R. No. 22--Directs legislative commission to study grand jury system in Nevada (BDR 746)

A.C.R. No. 32--Directs legislative commission to study travel by state officers and employees at state expense. (BDR 1154)

A.C.R. No. 33--Directs legislative commission to conduct study of Nevada Occupational Diseases Act. (BDR 1837)

A.B. No. 684--Increases compensation of certain employees and officers of legislature. (BDR 17-2114)

Any items referred to the Committee between now and Thursday will be added to the agenda, as received.



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

CAPITOL COMPLEX
CARSON CITY 89710
(702) 885-4170

RICHARD H. BRYAN
ATTORNEY GENERAL

LARRY D. STRUVE
CHIEF DEPUTY ATTORNEY GENERAL

April 15, 1981

Senator Gene Echols, Chairman
Legislative Affairs Committee
Nevada State Senate
Legislative Building
Carson City, Nevada 89710

Re: Request for Interim Legislative Study to Review
Nevada's Public Records Law and to Make Recommen-
dations to 1983 Nevada Legislature Respecting a
Freedom of Information Act

Dear Senator Echols:

Over the past two years, our Office has been called upon on numerous occasions to construe the meaning of Nevada's current public records law, which is found in Chapter 239 of Nevada Revised Statutes. The present law (NRS 239.010) does not contain a definition of the term "public record." This factor, coupled with the criminal penalties of the statute, makes the present law vulnerable to constitutional attack on the grounds of vagueness.

There is no case law in Nevada specifically interpreting the term "public record." Our review of case law from other states reveals that many courts recognize certain exemptions from disclosure of public records, sometimes based on specific statutory exemptions and sometimes implied. Such exemptions frequently recognize the importance of protecting vital rights of privacy as contained in medical records, financial information, trade secrets, and privileged communications by and between certain persons. Such exemptions also recognize the indispensable public interest of protecting lives and property from harm and violence.

Under current law, a public official in Nevada responding to a request for public records involving these interests frequently finds himself facing two unpalatable choices. Since NRS 239.010 contains no definition of what a public record is, nor contains any specific exemptions to

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protect the privacy interests noted above, the public official has to make the decision as to whether a record is a public record or has an implied exemption under law from disclosure. If the public official decides to disclose the record, the official can face the very real possibility of a civil suit from the persons adversely affected by the disclosure of records dealing with their personal privacy interests. Indeed, this Office is aware of one case in which a public official was successfully sued for libel in an instance where, upon request from a member of the public, he merely released and disclosed a complaint letter against an individual filed with a regulatory agency. On the other hand, if the public official refuses to disclose the record, he faces the real possibility of criminal prosecution under NRS 239.010. The official can certainly raise the defense that the record is impliedly exempted from disclosure or is not really a public record, but there is no guarantee that a Nevada court will necessarily accept the case law from another state. Indeed, there is a wide diversity in other state courts as to what is protected from disclosure and what is not.

In effect, under present law a public official has to guess whether a particular record is public or not or is impliedly exempted or not. If he guesses wrong, he is subject to either civil suit or criminal prosecution. That is the classic definition of an unconstitutionally-vague law. As the Nevada Supreme Court stated in Dunphy v. Sheehan, 92 Nev. 259, 262, 549 P.2d 332 (1976):

"A statute which requires the doing of an act in terms so vague that men of common intelligence necessarily must guess at its meaning and differ as to its application violates the first essential of due process."

Accordingly, the Attorney General's Office firmly believes that a freedom of information act should be developed for the State of Nevada, containing a definition of the term "public record" for the purpose of protecting Nevada's public record law and for defending such law against a successful challenge to its validity.

Over the past several weeks, our Office has shared our concerns with members of the media in Nevada, who have been most interested in protecting the public's right of access to public information. A discussion draft of a proposed bill was circulated, and many comments pro and con were received.

Senator Gene Echols
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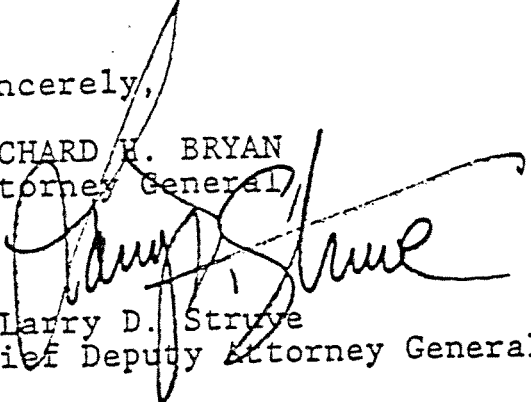
It has become obvious from the responses to the discussion draft that the development of a freedom of information act for Nevada, including a clear definition of a "public record," together with exceptions from disclosure of certain types of information contained therein, will be a complex process. Not only are the rights of public access to public information involved, but there are also complex questions involving personal privacy and confidential information necessary to protect and preserve health and safety. Many representatives from the news media suggested that an interim legislative study committee be established to sort out the complex issues and conduct an in-depth analysis of the legal and policy issues underlying a freedom of information act.

Accordingly, the Attorney General's Office respectfully requests the Senate Legislative Affairs Committee to draft and introduce legislation to establish an interim legislative study committee to develop a Nevada freedom of information act (FOIA) for consideration by the 1983 Nevada Legislature. Our Office would be pleased to assist the interim committee in developing a draft bill, and we would recommend that representatives of the Nevada State Press Association and other responsible groups in the media, as well as representatives from departments and agencies in State Government greatly affected by the public records statute be included in the advisory group established to work with the interim legislative study committee developing an FOIA for Nevada.

If you have any questions on the above, please do not hesitate to so advise.

Sincerely,

RICHARD H. BRYAN
Attorney General

By 
Larry D. Struve
Chief Deputy Attorney General

LDS:jc
cc: Senator Mel Close
Senator Jean Ford
Senator Jim Gibson
Senator Spike Wilson
Senator Sue Wagner
Legislative Counsel Frank Daykin

1 AN ACT relating to public records; defining the term "public
2 records;" and providing other matters properly relating
3 thereto.

4 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
5 ASSEMBLY, DO ENACT AS FOLLOWS:

6 Sec. 1. Chapter 239 of NRS is hereby amended by adding
7 thereto the provisions set forth as Secs. 2 to 5, inclusive, of
8 this act:

9 Sec. 2. A "public record" is any document required by law
10 to be filed in a public office; or, any document required by law
11 to be kept by a public officer in the discharge of a duty imposed
12 by law; or, any written memorial by a public officer, authorized
13 to perform that function, as evidence of official transactions of
14 a public office.

15 Sec. 2A. For the purpose of this Chapter, "person" includes
16 an individual, partnership, corporation, association, or public
17 or private organization other than an agency.

18 Sec. 3. The following public records of the state, a
19 county, a city, a district, a governmental subdivision and a
20 quasi-municipal corporation, and any department, office or
21 agency thereof, are exempt from the requirement of disclosure to
22 the general public:

23 (a) Medical files and records, the disclosure of which
24 would constitute a clearly unwarranted invasion of personal
25 privacy.

26 (b) Any record of security procedures, plans or
27 systems used to protect the safety of persons or property.

28 (c) Test questions, scoring keys, and other exami-
29 nation data used to administer a licensing examination, examina-
30 tion for employment, or academic examinations.

1 (d) Investigatory records compiled for law enforcement
2 purposes, but only to the extent that the production of such
3 records would (A) deprive a person of a right to a fair trial or
4 an impartial adjudication, (B) constitute an unwarranted invasion
5 of personal privacy, (C) disclose the identity of a confidential
6 source and, in the case of a record compiled by a criminal law
7 enforcement authority in the course of a criminal investigation,
8 confidential information furnished only by the confidential
9 source, (D) disclose investigative techniques and procedures, or
10 (E) endanger the life or physical safety of any person.

11 (e) Records containing trade secrets and commercial or
12 financial information obtained from a person that is privileged
13 or confidential.

14 (f) Records specifically exempted from disclosure by
15 statute or related to information declared to be privileged
16 or confidential pursuant to state law.

17 Any reasonably segregable portion of a public record
18 shall be provided to any person requesting access to such record
19 after deletion of the portions which are exempt under this sub-
20 section.

21 Sec. 4. When the request of a person to inspect a public
22 record is refused because the record is exempt from the require-
23 ment of disclosure or is confidential, the public officer or
24 employee having custody of the record shall refer the requester
25 to the provision of law authorizing or requiring the record to be
26 withheld.

27 Sec. 5. A person who has been denied access to a public
28 record may petition for a writ of mandamus in a court of competent
29 jurisdiction in the county in which the public record is situated
30 ordering petitioner's access to the public record. In such a

1 case, the court shall examine the contents of the public record
2 in camera to determine whether or to what extent access to such
3 record or any part thereof shall be provided.

4 Sec. 6. NRS 239.010 is hereby amended to read as follows:

5 239.010 [1.] All public books and public records of
6 the state, a county, a city, a district, a governmental subdivi-
7 sion and a quasi-municipal corporation [officers and offices of
8 this state (and all departments thereof),] , or any department,
9 office or agency thereof, the contents of which are not [other-
10 wise] exempt from the requirement of disclosure or declared by
11 law to be confidential [shall be] are open at all times during
12 office hours to inspection by any person, and [the same] such
13 records may be fully copied or an abstract or memorandum prepared
14 therefrom . [, and any] Any copies, abstracts or memoranda taken
15 therefrom may be [utilized] used to supply the general public
16 with copies, abstracts or memoranda of the records or in any
17 other way in which the [same] records may be used to the advantage
18 of [the owner thereof] their owners or of the general public.

19 2. Any officer having the custody of any of the
20 public books and public records described in subsection 1 who
21 willfully refuses any person the right to inspect such books and
22 records as provided in subsection 1 is guilty of a misdemeanor.

23 Sec. 7. NRS 239.030 is hereby amended to read as follows:

24 239.030 Every officer having custody of public records,
25 the contents of which are not declared by law to be confidential
26 or exempt from the requirement of disclosure shall furnish copies
27 [certified to be correct] to any person who requests them and
28 pays or tenders such fees as may be prescribed by the state, a
29 county, a city, a district, a governmental subdivision, a quasi-
30 municipal corporation or any department, office or agency thereof

Barrett

Nevada Professional Chapter Society of Professional Journalists, Sigma Delta Chi



May 19, 1981

TO: SENATE LEGISLATIVE AFFAIRS COMMITTEE

RE: Senate Concurrent Resolution 54

My name is Pat O'Driscoll, and I am president of the Nevada Professional chapter of the Society of Professional Journalists, Sigma Delta Chi. We are a national organization of more than 35,000 working and student journalists, and keenly interested in public records and freedom of information issues.

I apologize for not being able to testify in person today, but I hope you will read into your committee record our thoughts on one of the most important public records/freedom of information issues ever to receive legislative consideration in Nevada.

SCR 54 would establish an interim study committee to consider the issues and answers for a Nevada freedom of information act. We strongly support that effort as a prudent alternative to making any changes now without an extensive and complete review of existing laws, exemptions, etc.

We have been in touch with Attorney General Richard Bryan since the matter was first raised in February, and with the help of fellow journalists and an understanding attorney general, we believe the best approach has been reached and is now before you.

As unofficial watchdogs for the general public in public records matters, we're naturally interested in the whole issue of public records and freedom of information. As working journalists who frequently need access to such records to do our jobs, we are deeply concerned about present and future legislation in this area.

We hope you will consider including us in your study as committee members or advisers, much the same as journalists and government representatives worked together on the important issue of cameras in the courtroom.

We strongly urge that you pass SCR 54 and set in motion an important study that will clarify an important issue and help make, as the resolution says, "the greatest amount of information collected by government available for public inspection ..."

Thank you.

APPEARANCE ON SCR 65

JOE E. NUSBAUM

NEVADA INDUSTRIAL COMMISSION

In considering the need for a study of the feasibility of private insurance in workers' compensation in Nevada, the Commission believes you should consider the following factors:

Nevada's Premiums, Benefits and Funding

The State Insurance Fund is actuarially sound with money reserved sufficient, in the judgment of professional actuaries, to cover every liability of the fund. Nevada lawmakers can be justifiably proud of this somewhat rare condition.

By any measure, Nevada's benefits are good and Nevada's premiums and administrative costs are low. Nevada's overall premium rates have not increased since 1976. This is a record that many states look to with envy as they see their premium rates increasing year after year and the cost of administration, including heavy costs of litigation, spiraling upward.

As the Advisory Board commented, Nevada appears to be in the forefront with its rehabilitation efforts to return injured claimants to work as soon as possible. The entire Nevada workers' compensation system with its lifetime reopening and rehabilitation rights provides incentives to return to work. Also, within the last year, NIC has split out its safety consulting services from its safety regulation functions

and has been building a professional staff to provide loss control advice to policyholders.

Size of the Workers' Compensation Market in Nevada

A review of what happened in Arizona after the state was effectively opened up to private insurance may give some indication of what may happen in Nevada but with a much smaller total market in Nevada.

The State Fund in Arizona has 80% of the policyholders and private companies have only 20% of the policyholders. However, private companies have 62% of the premium income and the state fund has only 38%.

If today Nevada had the same breakdown between the State Fund and private insurance as exists in Arizona, the NIC would have 22,000 of the 28,000 policyholders but only \$49 million of the \$128 million of premium income. The largest ~~of the~~ private companies would have premium income in the range of \$2 million to \$10 million annually.

What would be the practical result of this pattern of insurance in Nevada? First, it would have a drastic affect on the ability of NIC to provide services to its policyholders. NIC has only recently attained a level of business that justifies such common insurance business features as marketing staff to assist policyholders, a communications staff to inform policyholders and claimants of their rights, obligations and benefits and a full-time actuary to do a complete actuarial job within the agency. NIC would have \$48.9 million of premium income to service approximately 22,000 of the 28,000 employers in the

state. Private companies would no doubt be serving major employers in Las Vegas and Reno, but NIC would have to provide statewide services and may be the exclusive insurer in the smaller towns and rural areas of the state.

On the other hand, what kind of services can even the larger private carriers provide in Nevada with from \$2 million to \$10 million of premium per year? We believe the only reasonable conclusion is that the service would have to suffer; that much of the service would have to be provided from California or Arizona or some more remote location where full services in such areas as rehabilitation can be adequately staffed.

Initiation of Self-Insurance in Nevada

Less than one year ago self-insurance became a reality in Nevada. Subsequently a number of mainly large employers in the State have been certified to self insure. The insurance Commissioner is developing a staff to regulate self insurance. Shortcomings or oversights in the original legislation have been identified and legislation has been offered to take care of these deficiencies so that self insurance can function properly under the law. Reporting procedures are under development now between NIC, the Insurance Commissioner and self insureds in order for all insurers to comply with the law in such areas as the prohibition against double payments and the requirement for reconciling payments for subsequent injuries.

There is a good deal remaining to be done to fully incorporate self insurance into Nevada's workers' compensation system. Also, it is too early to reach judgments about the adequacy of the statutes, regulations and administration of self insurance. To consider giving birth to private insurance before self insurance is even out of its diapers, seems to me to be poor family planning.

Reorganization of Nevada's Workers' Compensation System

The Advisory Board of Review created by the 1979 Legislature has recommended a major restructuring of the organization for administering Nevada's workers' compensation, safety and related labor laws. This involves a realigning of state agencies and an internal reorganization of the successor to the NIC, the State Industrial Insurance System, so that it may operate more as an insurance company.

The restructuring will not become effective until July 1, 1982 and, in fact, may require another year before it is fully operational.

We believe the consideration of private insurance before the new structure can be evaluated would be a mistake. By 1983 self insurance will have had three years of operation and the new State Industrial Insurance System will have had one year of operation. A study initiated in 1983 could make a much more meaningful assessment of the 1979 and 1981 legislative changes and, consequently, of the need for private insurance.

Previous Nevada Studies of Private Insurance

The Commission has seen no evidence so far that should change the conclusion that has been reached by every state study on the question of three-way insurance. The 1972 report of the subcommittee of the Legislative Commission recommended against private insurance. The 1978 report of the joint Legislative Commission convened to study the question of three-way insurance, among other matters involving NIC, stated:

"The subcommittee recognizes the need to provide the employers of the State with alternative methods of coverage but it is not of the opinion that the entry of private carriers into the field of workmen's compensation insurance at this time is in the best interest of all concerned."

The 1979 report of the Stanford Research Institute said:

"In summary we recommend that Nevada permit self insurance and structure the system to conform with the optimal two-way system defined earlier in this report. We do not consider a three-way system to be appropriate for Nevada at the present time..."

What has changed since these last two recommendations against three-way insurance? The employment growth of previous years has been substantially eliminated by a recession. Self-insurance is in its infancy but has taken about 15% of the workers' compensation market. The State Insurance Fund remains in sound financial shape. A number of improvements recommended by the Advisory Board and the Legislative Auditor in

S. B. 10

SENATE BILL NO. 10—SENATORS KEITH
ASHWORTH AND JACOBSEN

JANUARY 20, 1981

Referred to Committee on Legislative Affairs

SUMMARY—Revises provisions for registration and reporting of
lobbyists. (BDR 17-552)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to lobbyists; making administrative changes in the laws requiring
their registration and reporting; and providing other matters properly relating
thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. NRS 218.914 is hereby amended to read as follows:
2 218.914 ["Official member"] "*Member of the legislative branch*"
3 means any member of the legislature, [staff person,] *member of his*
4 *staff*, assistant, employee or other person employed with reference to the
5 legislative duties of the legislator.
6 SEC. 2. NRS 218.916 is hereby amended to read as follows:
7 218.916 "Person" [means a natural person or] *includes a group*
8 *of persons acting in concert [.] , whether or not formally organized.*
9 SEC. 3. NRS 218.920 is hereby amended to read as follows:
10 218.920 The registration statement of a lobbyist [shall] *must* con-
11 tain the following information:
12 1. The registrant's full name, permanent address, place of business
13 and temporary address while lobbying.
14 2. The full name and complete address of each person, if any, by
15 whom the registrant is retained or employed or on whose behalf the regis-
16 trant appears. [If the person is other than a natural person, there shall
17 be included a listing of the officers and board of directors.]
18 3. A listing of any direct business associations or partnerships with
19 any current member of the legislature.
20 4. A description of the principal areas of interest on which the regis-
21 trant expects to lobby.
22 5. If the registrant lobbies or purports to lobby on behalf of mem-
23 bers, a statement of the number of members.

1 6. A [sworn] declaration *under penalty of perjury* that none of the
2 registrant's compensation or reimbursement is contingent, in whole or in
3 part, upon the production of any legislative action.

4 SEC. 4. NRS 218.922 is hereby amended to read as follows:

5 218.922 Each person required to register shall file a notice of termi-
6 nation within 30 days after he ceases the activity that required his regis-
7 tration, [but this does not relieve him of the reporting requirement for
8 that reporting period.] *and the final report which would otherwise be*
9 *required after the close of the legislative session.*

10 SEC. 5. NRS 218.926 is hereby amended to read as follows:

11 218.926 1. Each registrant who has not previously filed these docu-
12 ments shall file with the director within 30 days after the close of the
13 legislative session a notice of termination and with the legislative com-
14 mission within the same period a final report signed under penalty of
15 perjury concerning his lobbying activities. [In addition, each registrant
16 who attempts to influence legislative action shall file with the director
17 between the 1st and 10th day of the month subsequent to each month
18 that the legislature is in session a report concerning his lobbying activities
19 during the previous month. Each] *This report must be on a form pre-*
20 *scribed by the director and must include the total expenditures made by*
21 *the registrant for directly communicating with a member of the legislative*
22 *branch to influence legislation, including expenditures made by others on*
23 *behalf of the registrant for those direct communications if the expendi-*
24 *tures were made with the registrant's express or implied consent or were*
25 *ratified by the registrant. The report must include a monthly compilation*
26 *of expenditures in the following categories:*

27 (a) Entertainment;

28 (b) Gifts and loans; and

29 (c) Other expenditures directly associated with legislative action, not
30 including personal expenditures for food, lodging and travel expenses or
31 membership dues.

32 2. [Each registrant shall file the reports of expenditures required by
33 subsection 1 if he has expenditures of \$50 or more during the previous
34 month.] *A registrant who fails to file the notice of termination and final*
35 *report within the prescribed period is ineligible to register as lobbyist for*
36 *the next session, unless the legislative commission for good cause shown*
37 *excuses the failure.*

38 SEC. 6. NRS 218.930 is hereby amended to read as follows:

39 218.930 1. The director shall:

40 [1.] (a) Inspect each statement and report filed within 10 days after
41 its filing.

42 [2.] (b) Immediately notify the person who has filed:

43 [(a)] (1) If the information filed does not conform to law.

44 [(b)] (2) If a written complaint has been filed with the director by
45 any person alleging an irregularity or lack of truth as to the information
46 filed.

47 [3. Notify] 2. *The director may notify any person of the filing*
48 *requirement who the director has reason to believe has failed to file any*
49 *statement or report as required.*

- 1 **SEC. 7.** NRS 218.932 is hereby amended to read as follows:
2 218.932 1. The legislative commission shall adopt regulations to
3 carry out the provisions of NRS 218.900 to 218.944, inclusive [.] , *may*
4 *require fees for registration, payable into the legislative fund, and may*
5 *classify lobbyists for this purpose.*
6 2. The director shall:
7 (a) Prepare and furnish forms for the statements and reports required
8 to be filed.
9 (b) Prepare and publish uniform methods of accounting and reporting
10 to be used by persons required to file such statements and reports.
11 (c) Accept and file any information voluntarily supplied that exceeds
12 the requirements of NRS 218.900 to 218.944, inclusive.
13 (d) Develop a filing, coding and cross-indexing system consistent with
14 the purposes of NRS 218.900 to 218.944, inclusive.
15 (e) Make the statements and reports available for public inspection
16 during regular office hours.
17 (f) Preserve the statements and reports for a period of 5 years from
18 the date of filing.
19 (g) Compile and keep current an alphabetical list of registrants,
20 including their address, the name and address of each person for whom
21 the registrant is lobbying and the principal areas of interest on which he
22 expects to lobby. A copy of the list must be furnished to each legislator
23 and to [the clerks of the respective counties for preservation and public
24 inspection.] *any person who requests it and pays the cost of reproduc-*
25 *tion.*
26 **SEC. 8.** This act shall become effective upon passage and approval.