

Q&A

Terry Care

FORMER SENATOR, D-LAS VEGAS

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TIFFANY BROWN / STAFF PHOTOGRAPHER

From legislation to litigation: Former Sen. Terry Care is shown in his office at the McDonald Carano Wilson law firm in Las Vegas on June 17.

Interviewed by Richard N. Velotta, Staff Writer

When the Nevada Legislature convenes in 2011, it will be without seven long-time lawmakers who can't serve anymore because of term limits.

One of those who won't return is state Sen. Terry Care, a Las Vegas Democrat who finally got to enjoy the benefits of being in the majority in his final term after years in the minority.

Care, who represented Clark County District 7 and served on the Senate's Government Affairs, Judiciary and Taxation committees, says he currently has no plans to pursue another elective office and will focus on his legal career as a partner with the statewide firm of McDonald Carano Wilson.

Care talked with In Business Las Vegas about the recent legislative session, predictions about the 2011 session and his observations on some of the key figures in Nevada politics.

IBLV: Because of term limits, this was your last legislative session as a state senator. Do you feel like you went out on top?

Care: Yeah, I do, pretty much. I have not really given that a lot of thought. This was the only session in which I ever enjoyed being in the majority. I had learned to be quite ef-

fective as a legislator in the minority because the margin was so thin. For example, in the 2007 session there were 11 Republicans and 10 Democrats, so cooperation and working together was absolutely mandated. But to chair a committee and have a leadership position, I'd never done that before and I did it, so that was part of the experience. But I pretty

much think I went out on top.

If there weren't term limits, would you have run again?

No.

Why not?

This goes back a long way, but I remember when Carol Burnett left her No. 1-ranked show, and the explana-

tion she gave was that sometimes change is growth. And 12 years, at least for me, in the state Legislature is just about right. It's time to turn it over to somebody else.

Do you have some other political aspirations? Will you be a lobbyist? Would you run for another office? How about an Assembly seat?

We adjourned on June 1 and I've learned over the years never to ask a legislator within 90 days of adjournment what it is that he or she wants to do because the judgment is a little bit clouded by the frustration of what they've just experienced. Now, having said that, no, I don't have any immediate plans to do anything except practice law.

This year's budget process was one of the most contentious ever. What were you most pleased with being able to protect in the final budget?

ONLINE:

An extended version of this Q&A can be found at inbusinesslasvegas.com.

I had never been through a session where the Legislature basically, first of all, examined the governor's budget and then had to go in and reconstruct the budget. I had never seen that happen before. And we all know the story behind that, where the governor said, "No taxes, no taxes, no taxes," and there were enough of us who felt that, "OK, we're going to need some revenue increases. We won't go to the extreme, but we're going to need something." So we had to redesign the budget and put a lot of the funding back in. I don't know that we saved anything so much as we were able to at least keep open the schools, to keep the prisons operating. Our job as legislators, among other things, is to fund public education, public safety and certain social services and trans-

SEE CARE PAGE 14

CARE

FROM PAGE 5

portation. We do that, we continue to do it, to a lesser degree than we did before, but to a greater degree than what the governor would be doing if he had it his way.

What was most troubling to you regarding what you weren't able to protect?

I told people all along when I ran for the first time in 1998, my focus was on public education. At that time, my wife and I had a child in the sixth or seventh grade. My wife had twice been a PTA vice president, and I had always made it a point to get to the schools to meet my daughter's teachers. I had heard the stories: Not enough textbooks, teachers didn't have enough resources and they had to dip into their own pockets and pay for very basic school supplies and that there were not enough schools to go around and this and that and the other. So I wish that we had more money for public education. Now, I know a lot of people say, "Well that doesn't work, look at the test scores, the answer is not money, it's accountability." Well, that's true. You can't just throw money at public education. But when you have public schoolteachers out here who are starting at roughly — and this is with a degree and certification and no experience — \$33,000 or \$34,000 and you have the turnover we have here, I don't think that's very good policy. Unfortunately, we couldn't do anything to change that. We cut funding for public education. It doesn't look as though that's going to translate into pay cuts for teachers. Those are actually calls that are going to be made by the school districts themselves. So even though you heard about 4 percent pay cuts for teachers, the Legislature is not in the position to do that because of the contracts between the school districts and the teachers at the local level.

Even though Senate Republicans were in the minority, having a Republican governor gave them some leverage. Do you think the sunsetted tax increases were the best this Legislature could have accomplished?

Whoever goes up to Carson City in 2011 is going to be faced with these same issues all over again, and who knows, it may be even more dramatic than it was this time. We had two special sessions last year, one in June and one in early December after the Economic Forum came out with its projections, and it was clear that we were going to have to cut. We all knew prior to the session beginning Feb. 2 that there just were not going to be enough funds, not for any new projects, but that we were going to have to cut existing projects. Nobody wanted to do it and there was sort of a malaise that lingered throughout the entire session. We ended up with sunset. OK, that was an interesting debate because we know going in that the next legislative session is going to have to say, "Well, wait a minute — we still don't have enough funding, so what do we do?" It'll be the

same issue: taxes — maybe not necessarily the creation of new taxes, but raising existing taxes, maybe just extending what we did this session. I don't know. But already you're hearing estimates that they're going to be faced with a \$1.5 billion shortfall going in. I don't envy them. If there hadn't have been a sunset, maybe they wouldn't have to be faced with doing it all over again, I don't know. On the other hand, the sunset provision gives some comfort to those who were hit with the increased taxes: "OK, I don't like this, it's a severe recession, this is coming out of my pocket, especially the modified business tax that makes changes, at least the creation of the second bracket." But at least they know that there's an end to it.

Do you have any advice for those who will be filling your shoes?

Don't do anything in haste — and it's not just because of the 2009 session and what we went through with taxes. It took me, in all honesty, about three sessions to kind of get into it and figure out how this all works. It's not like the civics books that we all had in the eighth grade, "a bill is introduced in this house and then goes over to this house." It's much more complex than that. You do have to observe and learn from those who have been there before you. There was a lot of institutional knowledge that goes out with the seven of us who walked out the doors on June 1 because of term limits. Don't try to do too much. You're only one of 63 people. That's not a lot of leverage when you're just one of 63. Understand that you're new and don't presume that you know it all, because you certainly don't.

Were you and your fellow legislators frustrated with Gov. Gibbons and his leadership style?

Sure we were. There was no mistaking what his political philosophy was and he never deviated from that. He ran on that platform and he stuck to it and he's still there today and, in fact, there were hints to that in some of the veto messages for the various bills that he sent back or gave thumbs down to for this session. However, that doesn't preclude necessarily a chief executive from working with the Legislature. The contrast I give is Kenny Guinn, because Guinn was governor for my first four sessions. Kenny Guinn had a way of coming over to the legislative building once or twice a week. You'd see him in the hallways. He even came to my office on a couple of occasions, and I was just this guy in the minority. He just showed up in the doorway and my secretary said, "The governor would like to talk to you," and he would come on in. It might be something simple like, "Let's go down to the deli and get a sandwich and talk." We didn't have any of that (with Gibbons). There just wasn't any communication that I'm aware of. There were a few meetings with leadership, but part of legislating, whether you're in the executive branch or the Legislature, is the cultivation of relationships so that when you have disagreements because of policy or ideology you can nonetheless strike some sort of an accord, or try to, and that's based on

relationships and it just was not there.

What do you think is the most sensible route to solving the state's budget crunch?

Nevada is unique. People forget and I don't know what it's going to show in the 2010 Census because there's been some hint that the growth has not been here in the last couple of years like we've seen in previous years, but normally with each census, we find that there's a 60, 61, 62 percent increase in population growth in Nevada. That puts a tremendous amount of demand on services, highways, roads. Local government, to some extent, takes care of that, but in large measure, the state has to handle that. What to do about that? You've heard a lot of talk about an unstable tax structure. There's some truth to that, but that's not the whole story. In 2005, when we had the rebates following the tax increase in 2003, I don't recall anybody saying, "We've got a really unstable tax structure, we've got too much money." Nobody said that. It really comes down to the economy. Do we have to redesign the tax structure so that we don't have these incredible fluctuations? I don't know. There have been something like six studies of the tax structure in Nevada going back to 1960, and you know that Sen. (William) Raggio, as part of the tax package, was able to hammer through a bill calling for another one, and the governor vetoed that. Also, there was testimony by some of the people who participated in the last study in 2002 that no new tax study was necessary. We know what the issues are, we know what the possibilities are. The question is whether the Legislature wants to do that. And that's going to be up to the folks in 2011.

Now that you've talked about the most sensible route, what do you think is the likeliest route to solve the budget crunch?

Historically, the answer has been the Band-Aid approach. I would be inclined to say probably more of the same and some very public frustration by many of the same people in the Legislature that this is not the way to do it. However, I suppose it's possible that if the Assembly stays Democratic — and I'm sure it will, the margin is 2-1 at this point, 28-14 — and if the Senate remains Democratic and, in fact, even increases the number of seats it has so that it would have a two-thirds veto-proof majority and you were to have a Democratic governor and the Democrats, assuming that they would work harmoniously — and that's not a given — then, maybe, something different would happen. I don't know.

You talked about how much the economy plays in the state's ability to generate revenue, but do you think the state needs new taxes or is it just a matter of modifying the existing tax structure?

You can always find waste. The longer that I have been in the Legislature, the more I agree with those who say we've got duplication,

we've got waste, we're a little top-heavy here or there. I think that's true to some extent. On the other hand, I find myself having listened to public testimony now during six regular sessions about inadequate funding for mental health. This is more on a local level with the "60 Minutes" piece on the county hospital. You can pretty much demonstrate with the statistics — and you can play with statistics — that Nevada is ranked so low — the cliché is we're 50th in everything; we're not, we're 48th and 49th in some. But you talk about high school dropout rates, infant mortality, alcoholism, suicide, the whole host of those indicators that are used to qualify lifestyle, and there's a lot that needs to be done. I think you have to be very careful with money and I do think that going forward, at least in the short term, you're going to hear a lot of agreement from even those who are advocating increased funding, agreement for accountability of some measure.

Aside from tax and budget matters, what do you think were some of the key achievements of the legislative session?

That was pretty much it. Let me put it to you this way. Generally before a session, you kind of know what you're going to be faced with. For example, in 2003, following the creation of the so-called Governor's Task Force, we knew that we were going to have to address taxes in 2003. We also knew in 2005 that we were going to have to deal with property tax caps. This time around, we knew we were going to have to deal with a budget shortfall. If you were to go out on the street and ask anybody, "What did the Legislature do this session?" You might find that those people who follow these events would say to you, "Well, I remember reading that they kept the schools open and they did some stuff with taxes." That's really simple, but I think that's what the public will remember.

What were some of the big disappointments?

I have made it a point since my first session to have any number of bills that deal with what I call governance. In this and in the 2007 session, I had a bill that would have created an interim committee to study so-called home rule. A lot of people don't know this, but cities and counties are political subdivisions of the state and they are not authorized to do anything unless the Legislature gives them the power to do that. That's not true in all states, but it is true in Nevada. It's based on a rule that comes out of an 1864 Iowa Supreme Court case.

I've often thought with all of the growth that we see at the local level and all of the stuff that the locals have to deal with, that there's a case to be made for turning over some power to the counties and the cities so they can act without having to come to Carson City, not every year but every other year, hoping to get a bill passed that, in fact, might die because of a personality conflict or something that doesn't have anything to do with the merits. That bill didn't go anywhere in 2007; however, this time



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around I was able to get it on.

Looking back over the entire span of your legislative career, what was the highlight?

Actually, the highlights come from those bills that come from casual conversations with just plain folks. For example, my wife and I are close to a family with five children. The first child was born deaf, and the parents did not know the child was deaf until that child was a year old. They went through all sorts of nightmares trying to figure it out. They knew something was wrong, but they couldn't pinpoint it. When they discovered the first child was deaf, the doctors basically said, "You know, we've discovered a gene and if you ever have additional children, this could come up again." Well, in fact, their third child, a girl who is very close to my daughter, was born largely hearing impaired. Nevada now mandates hearing testing for newborn infants. That's because of a bill that Assemblywoman Sheila Leslie and I worked on in, I think, the 2001 session. I've received more satisfaction from that than you might realize. I get e-mails from people, I get invited to speak occasionally at what they call the Alexander Graham Bell Association.

There also was another bill. I was talking to a Metro cop one night at an ice cream stand, and he wanted to know why it was that members of the National Guard could not go to college tuition-free. He explained to me that in New York he had been able to do that, but he'd come out here to Nevada to take a job with Metro and he couldn't do it. The result is that today, if you are a member of the National Guard of Nevada or even a high school graduate who commits to going into the National Guard, you can attend within the Nevada system tuition-free. One time I was getting on an airplane a couple of years after the bill had become law. I was sitting there with another senator getting ready to fly down to Vegas on a Friday. I didn't know this woman, but she was in uniform and she sees me and she stops and she says, "Thanks for the college education." So little stories like that.

Assess the performance of Sen. Steven Horsford in his first session as majority leader.

We did a tribute to Sen. Horsford, I think, on the last evening of the session. He's a remarkable guy. I have to refrain from saying "remarkable kid" because he's 36 years old and the youngest member of the Senate. We celebrated his birthday during the session. He is gifted, he has leadership talents. A little rough around the edges, and I know the columnists have written that he got beat up a little bit by Bill Raggio, and there's some truth to that. But he has come a long way. This was his third regular session. He's come a long way from his first session. I knew him when he was up there as a lobbyist. The growth has been phenomenal to watch. He gets better every day and he will be the senator, I'm sure, in the 2011 session.

Assess the performance of another term-limited senator, Bill Raggio, in this session.

Bill Raggio is a pleasure to watch. I could tell you all kinds of Bill Raggio stories. You know, he's been in the majority, I think, since the 1991 session, maybe the 1993 session. He's 82 years old. You wouldn't believe it to watch him because he has a lot of energy that people that age, if they ever get that far, don't come close to having. He's very bright. He's shrewd. He is about five steps ahead of you on everything, and even as we know from this last session, when he's in the minority, he still has a way of being very effective and, in many cases, getting what he wants. But I've enjoyed working with Bill tremendously. We've had our shouting matches and our debates, but man, I hold deep, deep respect for him.

The Republican Party had a pretty bad day June 16. What do you think are the long-term repercussions of Sen. John Ensign's disclosure that he had an affair, State Sen. Warren

Hardy's resignation and the departure of Gov. Gibbons' chief of staff, Josh Hicks?

Well, as for Sen. Ensign, I don't have anything. That's a personal matter and I'll take him at his word that it's the worst thing he's ever done in his life, and I'll just let it go at that. We're all human.

Warren Hardy's resignation, I don't know that that really comes as a surprise. We'd heard stories during the session, but I never discussed it with him that he was not interested in running for another term. He came out on top on that ethics complaint, as you know. That went to the Supreme Court, and the Supreme Court recognized the separation of powers and said that policing, if you will, has got to be left to the Legislature, not the Ethics Commission. So Warren was right about that. But I also know that Warren heading ABC, the Associated Business Contractors, that that takes up a lot of time for him and he's a family guy, so he has those commitments. So it really doesn't come as a surprise. I imagine the seat will remain empty unless there is a special session, which there very likely could be toward the end of the year if the revenue projections don't hold up. But had he run for reelection, it would have been a tough campaign because I think the demographics are such that the district is slightly Democratic anyway.

Josh Hicks is an engaging, bright, young guy. He is somebody that I did have communication with during the session. That's not a permanent job. There's no 401(k). It comes with being the governor's chief of staff. So I think after the adjournment of the session he's probably just thinking it's time to move on to something else.

Let's talk a little about your law firm. What is your expertise within the firm?

I came over here after 15 years of practice with Stan Hunterton. I, primarily, am a general civil litigator with a focus on business disputes. I've done a little of this and a little of that over the years, but that's primarily what I do.

What are some of the areas of expertise within that discipline and why do you enjoy it?

I remember my first day of law school, and I suppose this same speech is given in many law schools, but the associate dean told us, "I hope you didn't come here to study justice. If you came here to study justice, you're in the wrong place, you need to go to divinity school because here, we study the law." The general public doesn't understand that and that's not necessarily a notion that I particularly agree with. We all want justice and we all look to the courts to get it. But I understood what he meant. The practice of law is fascinating. Many times when I'm doing my legal research and I am drafting a complaint or reviewing a complaint that's just been served upon a client and I'm trying to figure out the possibilities and the scenarios and the legal theories, it's a little bit like being able to play chess all by yourself. It's fascinating. And every time you get a case, from my perspective, it's almost like picking up a new novel. The cast of characters, you don't know what's going to happen, and every case has a life of its own. I don't know how to answer your question except that that's what I enjoy about what it is that I do.

How has your work and the firm's work been affected by the economic meltdown?

We could see it coming. Like every law firm, we were cognizant of what was happening last year. We discussed it and, without going into details, we took some appropriate, conservative, wise measures and we're going to come out of this just fine. People are still suing people. People are still hiring attorneys to defend themselves in lawsuits, and there are bankruptcies. There are all manner of things. The world goes on and the world of commerce goes on. It has slowed down to some degree, that is true, but we're doing just fine.

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