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Testimony on AB 289
March 18, 2003

Thank you, Madam Chair, and members of the Committee. For the record, I am Valerie Weber, Assemblywoman, Clark County District 5.

I bring before you today AB289, which addresses randomization of candidate names on election ballots, whether primary, nonpartisan, general election or city offices. This bill is technical in nature but begs a greater discussion on the political disposition of its contents. It is brought by request from a constituent in my district, retired judge from Cook County, the Honorable Norman Rothbart, who will celebrate his 80th birthday in May. Unfortunately, he could not be here with us today.

To familiarize the Committee with this bill, please allow me to walk you through the ten **proposed amended sections** of Nevada Revised Statutes 293.256 through 293C.262 on page seven.

After this short introduction, I will continue testimony regarding the essence of discussion of this bill, its **political ramifications**. Finally, we will explore **what other states have done** in regard to the order of names on ballots.

Proposed Changes:

Pages 2, 3

Sec 2 - NRS 293.256 is proposed as follows:

1. **Subsection 1(b)** line 44-45 states that the listing of candidate names must be randomly alphabetized
2. **Subsection 2** describes the randomized procedure of alphabetization by two methods:
 - **Drawing of lots**
 - **Computer or other device that can generate characters at random**

Examples in this section are given regarding:

- how the surnames are to appear,
- if the surnames of two or more candidates begin with the same letter,
- if the surnames of two or more candidates are the same,
- if the surnames of two or more candidates are the same and the given names of those candidates begin w/ the same letter

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Sec 3 – NRS 293.263 describes that on a **major political party primary ballot** the names of candidates must be grouped by the order of randomization as described in 293.256

Sec 4 – NRS 293.265 describes that on a **nonpartisan primary ballot** the names of candidates must be grouped by the order of randomization as described in 293.256

Sec 5 – NRS 293.267 describes that on the **general election ballot** the names of candidates must be grouped by the order of randomization as described in 293.256.

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Sec 6 – NRS 293.268 subsection 9 (b) **LINES 6-13** describes city offices whether divided into wards or not must be randomized according to NRS 293C.255.

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Sec 7 – NRS 293C.255 subsection 1 again reiterates that the names of candidates as printed on the ballot must be according to a randomized procedure of alphabetization

Sec 8 – NRS 293C.257 describes that on the **primary city election ballot** that the names of candidates must be grouped as described in NRS 293C.255

Sec 9 – NRS 293C.260 describes that on the **city general election ballot** that the names of the candidates must be grouped according to NRS 293C.255

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Sec 10 – NRS 293C.262 on page seven, Paragraph Roman I describes **city offices** whether divided into wards or not must be randomized according to NRS 293C.255

Political Inference

I would now like to turn the Committee's attention to the political aspects of this bill.

We in America would say we pride ourselves in a political process that provides equity in elections, in that no single one candidate should hold an advantage over another by way of the process. Each candidate must convey his/her message to the voting public by way of his/her own merits: a "level playing field," if you will. Under any reasonable standard of fairness, ballot format should not determine the outcome of an election. Additionally, the candidate preferred by most of the people should be the one who wins the election.

However, political professionals have long taken for granted that the top spot on the ballot provides an advantage to the candidate whose name occupies it, by as much as

2.5 percent. In some cases as quoted in the Steen article (see references) candidates have brought lawsuits to prevent their incumbent opponents from enjoying this advantage. Still, most states assign the fixed ballot, alphabetized process.

These effects are most readily seen in races where there is no party affiliation, minimal publicity and no incumbent. Name order effects seem to be stronger in areas where voters were less knowledgeable about politics. In other words, when citizens hear our plea that voter turnout is forecast to be low, "citizen duty" may compel some to cast votes even though these voters lack sufficient information to make informed choices. Statistics then show that the first ballot position has increased value in outcomes of these election results. When one takes into account additional factors such as added length of ballots, increased wait time at the polls, or lack of a marked sample ballot as reference, the choice of selecting the first name position on the ballot can be timesaving and dramatic. I can remember how many times in school I would choose the first position "a" on a multiple choice exam if I didn't know the answer. Perhaps that theory of choice may apply to elections as well.

What Other States are Doing

A variety of approaches exists within our 50 states regarding name order on the ballot. I do not pretend to be an expert on any of the described methods in your supplemental handout, but I do bring these to the attention of the committee to indicate the variety of methodologies that do exist today. Of the 34 states where data is available:

- 1 state has a random order of candidate placement by the Director of Ballots (AK)
- 11 states order candidate placement by prevailing office from the last election cycle
- 1 state name order is by Party
- 6 states order is determined by lot
- 11 states, including our own, orders alphabetically
- 2 states by randomized alphabet
- 2 states by miscellaneous methodologies including the office of Secretary of State and State Election Commission

What is of interest is that Mississippi has had a House Bill and 2 Senate Bills introduced in both the 2001, 2002 sessions to alphabetize the name order on the ballot and they all failed.

To advise the Committee further, as a matter of history within our own state, Senator Titus brought SB292 to the Senate Government Affairs Committee back in April 1997, which included a section on randomization on the ballot. Then Registrar Kathryn Ferguson testified "a lottery offered a more equitable approach than the current alphabetical listing of names and pointed out if the filing officer was a candidate for office, an alternative list of individuals who could draw names would have to be established."

Conclusion

We have reviewed the technical changes of NRS 293 to allow for the randomization of candidate names on the ballot. Additionally, we have reviewed what other states have done and are currently doing in this arena.

Evidence and studies show that name position (listed first) on the ballot does have advantage and could in some circumstances influence the outcome of an election for the wrong reason. The psychological theory of order effects predicts that "primacy effects" (or biases toward selecting the first object considered in a set) is truly predictable.

The Miller article (see references) compiles documentation from the past 50 years regarding numerous lawsuits that have been filed by candidates denoting that elections were disadvantaged when their name was not listed first on a ballot. Plenty of evidence exists, it's a matter of what philosophical and political approach we ought to take.

As a result of this testimony and review of the literature I urge your consideration of this bill allowing for the randomization procedure of alphabetization for candidate names on the ballot.

References:

Miller, Joanne, and Krosnick, Jon, "The Impact of Candidate Name Order on Election Outcomes," Public Opinion Quarterly, Volume 62:291-330, 1998

National Conference of State Legislatures: Ballot Format: Ordering of Candidate Names, March 2003.

Steen, Jennifer, "First Guys Finish First," Department of Political Science, Boston College. Undated.