

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON ELECTIONS, PROCEDURES, ETHICS, AND  
CONSTITUTIONAL AMENDMENTS**

**Seventy-Third Session  
March 31, 2005**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order at 3:49 p.m., on Thursday, March 31, 2005. Co-Chairwoman Ellen Koivisto presided in Room 3142 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Mrs. Ellen Koivisto, Co-Chairwoman  
Mr. Harry Mortenson, Co-Chairman  
Mr. Marcus Conklin, Co-Vice Chairman  
Mr. Bob McCleary, Co-Vice Chairman  
Mrs. Sharron Angle  
Mr. Mo Denis  
Mrs. Heidi S. Gansert  
Ms. Chris Giunchigliani  
Mr. Brooks Holcomb  
Ms. Kathy McClain  
Mr. Harvey J. Munford  
Mr. Bob Seale  
Mr. Scott Sibley

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator Steven Horsford, Clark County Senatorial District No. 4

**STAFF MEMBERS PRESENT:**

Paul Townsend, Legislative Auditor  
Michelle Van Geel, Committee Policy Analyst

Celeste Gunther, Committee Attaché

**OTHERS PRESENT:**

Janine Hansen, President, Nevada Eagle Forum  
Lynn Chapman, Vice President, Nevada Eagle Forum  
John Wagner, President, Burke Consortium of Carson City  
Richard Siegel, President, American Civil Liberties Union of Nevada; and,  
Member, HAVA [Help America Vote Act] Advisory Committee to  
the Secretary of State  
Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance  
of Nevada (PLAN)  
Karen McEntire, Private Citizen  
Larry Lomax, Registrar of Voters, Clark County, Nevada; and, President,  
Nevada Association of County Clerks  
Lucille Lusk, Chairman, Nevada Concerned Citizens  
Cliff King, Chief Insurance Assistant, Division of Insurance, Nevada  
Department of Business and Industry

**Co-Chairwoman Koivisto:**

[Meeting called to order. Roll called. Opened hearing on A.B. 268.]

**Assembly Bill 268: Requires Legislative Auditor to report willful noncompliance  
with applicable laws or regulations. (BDR 17-676)**

**Assemblywoman Sharron Angle, Assembly District No. 26, Washoe County  
(part):**

This bill allows the Legislative Auditor, when he finds evidence of willful noncompliance with an applicable law or regulation, to report this noncompliance to the Governor, each member of the Legislature, and the Attorney General (AG). I spent the interim sitting on the Legislative Commission going over legislative audits and hearing from our Legislative Auditor that certain departments are out of compliance. In the next quarter, they would still be out of compliance. I asked him if there was anything we could do. He said that they remind the departments. I thought we could put a few more teeth in this and not make it just a reminder, but to make them take us seriously.

When we do these audits it's not because we want to look good, it's because this is part of what we do as a Legislature; it's part of the checks and balances of our system. When we do these audits we expect the divisions to pay

attention. We're offering them constructive criticism and asking them to go along with what we find. I believe that our Audit Division does a good job and they don't complain about superfluous things. They say that these things need to be fixed.

[Assemblywoman Angle, continued.] What I'm bringing you today is another mechanism for our Legislative Audit Division to be able to go to the Attorney General. They can already go to the Governor and the Legislature, but this allows them to go one step further, to the Attorney General and tell him that these divisions are still out of compliance, and ask if there is any action the Attorney General can take. We pass laws all the time that relate to these divisions and we expect them to obey the law just as we expect the private citizen to obey the law. So this is a mechanism to tell them how serious we feel the laws we pass here in this building are, and that we really do want compliance. I've asked Paul Townsend, Legislative Auditor, to be here – not in support or opposition to this bill, but only to offer clarification.

**Assemblyman Seale:**

This is a very fine piece of legislation. I'm stunned to find that we're not passing this information on already. Agencies that are not following those recommendations are costing us money. But why send it to every member of the Legislature rather than just the Audit Subcommittee? I'm not concerned one way or the other, but I know there are people that don't get as jazzed as I do about audits.

**Assemblywoman Angle:**

I know I like to get those audits. Probably there is a provision for that.

**Paul Townsend, Legislative Auditor:**

We currently provide our audit reports to the individuals indicated here. This legislation stipulates that we're going to make a determination if willful noncompliance has occurred. We always report noncompliance. I believe the reason for this bill is that there has been frustration in the past when we report findings and what legislators can do about it when laws are passed and they're not complied with. This is intended to address some of the more serious cases of noncompliance. It's placed in the statute where we're required if we find evidence of illegal acts to report that to everyone. But in the past we haven't specified compliance with statutes or regulations. What are common are violations of contract solicitation requirements, or completion of personnel evaluations. Those are the types of things that are routinely reported.

**Assemblyman Seale:**

So the operative words are "willful noncompliance," that's where you were going with this? [Paul Townsend responded in the affirmative.] I have no problem with that. I think it's great.

**Assemblywoman McClain:**

How would we define "willful noncompliance"?

**Paul Townsend:**

That is something we've not done in the past so that would be a challenge for us to determine. There are instances when we receive correspondence from agencies where we ask them why something occurred and they indicate it. There would be other times when we would have to use professional judgment, that is important to get on the record. There would be varying degrees of seriousness in the types of noncompliance. Frequently we have agencies which don't do the performance evaluations for employees. But if an employee had a choice between doing a performance evaluation timely or placing a child in foster care, we're going to have to use some serious professional judgment in those instances.

**Assemblywoman Angle:**

"Willful noncompliance" is a legal term, that's why we put the AG in the loop here. The Legislative Auditor will bring what he feels is a frustrating case and ask the Attorney General to look at it and tell him if the case meets the requirements of this statute. At that point the Attorney General will make that determination. It's not going to be up to our legislative auditors to determine whether it's willful noncompliance but more up to the legal minds in the Attorney General's office.

**Assemblywoman McClain:**

If that's the case, if it's going to rise to the level of illegal, there are already provisions for supplying the information to the Attorney General.

**Paul Townsend:**

Generally, when we talk about illegal, we've used that to mean criminal activity where we're going to turn it over to the Attorney General to pursue a criminal prosecution. Other areas of noncompliance may not have a criminal element, like the one I mentioned, not doing a performance evaluation timely, or not properly soliciting bids, unless we could determine that an individual had received compensation or used their position inappropriately in the awarding of a bid. If they did it as a convenience, rather than to go through the bidding

process, it may not be something that we would routinely turn over to the Attorney General.

**Assemblywoman McClain:**

I know that the Assembly Ways and Means Committee and the Senate Finance Committee get audit reports all the time. If some State agency plans on getting their budget approved they're usually careful about complying with audits. So I think that is your check and balance, the money committees. IFC [Interim Finance Committee] gets those reports all the time. I think that the budget aspect is a good method of ensuring compliance.

**Assemblywoman Angle:**

Not all of those audits go to IFC. They come to us [Legislative Committee] and we approve them. So we don't feel like, in a lot of policy areas, we have the kind of leverage that we need. There was a lot of frustration expressed on our committee this past interim over this. We'd get a report and notice that it was the same noncompliance time after time. That begs the question, are they doing this intentionally? Once or twice, maybe, but when it's time after time they're just getting around us, so that's why we've brought this measure.

**Assemblyman Conklin:**

If you find evidence of noncompliance, and you turn it over to all these people, what is the penalty?

**Paul Townsend:**

That would be determined by the Office of the Attorney General. Sometimes statutes carry a provision for a fine, but in other cases there isn't a stipulated penalty. The Attorney General may determine it's a misdemeanor in some cases, but that would be up to the Attorney General.

**Assemblyman Denis:**

Currently, the first time there is noncompliance it goes to the Governor and each member of the Legislature?

**Paul Townsend:**

The way it's written, I'm not sure it's the first time. If we made that determination, I'm not sure it's necessarily the first time.

**Assemblyman Denis:**

So at some point you make that determination, if it happens a second time do you then notify us again?

**Assemblywoman Angle:**

The way it has been within the Legislative Commission, when we get an audit and they are noncompliant in certain areas, we wait. The next quarter they come back and we ask if they are now in compliance. If they say "not yet," this [process] continues; sometimes they are, and we clear that off; sometimes the answer is "not yet, but we're working on it." There was one division that was noncompliant for over two years, and I'm not sure they're in compliance yet, with an audit that I requested, which had to do with contract bids. At what point in the process when we're trying to get them to comply, does the Legislative Audit Commission ask Mr. Townsend to turn it over to the Attorney General and ask if this could be considered willful; that they're not complying because they don't want to. That, to me, is willful noncompliance when you keep asking someone to comply and they keep putting you off.

**Assemblyman Denis:**

Mr. Townsend, do you feel that this would be helpful to you, as you're trying to get someone to come into compliance?

**Paul Townsend:**

Perhaps I need to make a distinction between the audits and the audit follow-up process that Assemblywoman Angle is describing. We have audits, we make recommendations, and then agencies do a 60-day plan of corrective action of how they will implement those recommendations; that is in statute. Six months after that the Department of Administration, through their Division of Internal Audits, gets involved. They examine the agency and determine if they've implemented the recommendations. They prepare a report for me, which I take to the Audit subcommittee of the Legislative Commission. The agencies then come to a public meeting, and they're held accountable to respond to the extent that recommendations have not been implemented. I take that report to the Legislative Commission.

There are instances where the recommendations are not implemented within the 6 month period. If that occurs the Audit subcommittee will ask them to return to a future meeting and indicate why. Sometimes changes may take awhile to implement; other times, they are more routine and the agency just hasn't implemented them. We feel our audit follow-up process has been successful and cases are somewhat rare. Our legislation on the audit follow-up process is the envy of states across the country. Most states don't have legislation mandating some sort of audit follow-up. Frequently, other states contact me wanting examples because there are many other states where the Legislature doesn't play an active oversight role in the implementation of the audit recommendations, as is done here.

[Paul Townsend, continued.] There are some that don't come along as well as they should. I work with the Governor's office and they've implemented support because they want the recommendations implemented as well. We cooperate with the Executive Branch. Nonetheless, there are some instances where they don't do it as timely as we would like.

**Assemblyman Denis:**

So would this be helpful or not?

**Paul Townsend:**

I have to defer to Assemblywoman Angle on that.

**Assemblywoman Angle:**

You're asking him a question that would require him to support or oppose this bill [which he cannot do.] I'll tell you I think it would be helpful to the Legislative Commission to be able to instruct our auditors to follow up in this manner.

**Assemblyman Seale:**

As a former auditor, I'm sure it would be most helpful. I don't have any problem with the legislation, we can go on forever the way it is. Currently, there is no effective penalty that's available to the Legislative Auditor, to put any teeth in it. When you start saying "we're going to turn this over to the Attorney General" that bumps it up a notch, and that in effect becomes a penalty.

Does this legislation require more work of you? One word answer.

**Paul Townsend:**

I'm not sure I can answer that with one word. Every situation is going to be different.

**Assemblyman Seale:**

You already identified those agencies that will fit into this category. At that point, aren't you merely passing this information on to the Attorney General, Legislature, and the Governor?

**Paul Townsend:**

The determination of whether it's willful or not may require some additional work. I neglected to mention one other point in our existing audit follow-up legislation. There is a penalty where the Audit subcommittee or the

Legislative Commission can instruct the Director of the Department of Administration to hold a hearing as to why these recommendations are not being implemented. The Director of the Department of Administration can, at that time, withhold money from an agency or a salary of an employee. There are some existing penalties in place, but it does require the Executive Branch to do that.

**Co-Chairman Mortenson:**

It seems to me that the Attorney General picks what he wants to prosecute. But if Mr. Townsend notifies the Attorney General that someone is out of compliance, does this bill say that he will investigate and exact a penalty if he finds willful noncompliance? I'm concerned that things will be the same again. We'll refer it to the Attorney General and nothing will happen.

**Assemblywoman Angle:**

If you want to strengthen this, I'm available for amendment. But at this point we're not mandating anything upon the Attorney General.

**Co-Chairman Mortenson:**

They're in the Administrative Branch. When you have the Administrative Branch prosecute the Administrative Branch, it's the fox guarding the chicken coop, so to speak.

**Assemblywoman Angle:**

You're right. And that's why, when we say that the Executive Branch can bring a penalty upon themselves, that's one of the problems. But at least we're getting it out of the Governor's area and putting it into the Attorney General's office, which is a different elected office. Hopefully that will be enough to bring more scrutiny to this process.

**Assemblyman Conklin:**

I'm struggling with this bill. On the one hand, my record speaks for itself where I stand with respect to audits. On the other hand, I'm pro independent audits. I'm struggling with giving the Attorney General, a State agency, an agency funded by State funds an opportunity to fine or penalize other State agencies for funds that are also State funds, for noncompliance.

It is our job, as the Legislature, to take the report from Mr. Townsend, who works, technically, for us, and enforce upon the agencies their noncompliance. We have the biggest stick of all: the power of the purse, which we have exclusively. I have some problems involving anyone, other than the Legislature, for an audit that the Legislature has mandated and asked for compliance in. I



understand where you're trying to go, and I agree with you, but at the end of the day it's our job to enforce compliance. I'm frustrated because I know it happens, and yet I also think this isn't necessarily the right way to go about fixing it. We need to do a better job of closing the purse.

**Co-Chairwoman Koivisto:**

We can turn it over to the Attorney General, but that doesn't mean anything will happen. It seems to me that if the head of an agency, which was found noncompliant repeatedly, had to worry about his job that would be the biggest stick.

**Assemblywoman Angle:**

It is a big stick, and that was my feeling too, when I first envisioned this bill. But after talking with Mr. Townsend, we decided that we would go a little slower in this process, because as he pointed out, there aren't too many of these cases. This is kind of a rare situation, but it's enough to be frustrating that it happens. We should go slowly in this process, rather than taking a hammer. So that's why we brought a little softer measure forward.

**Janine Hansen, President, Nevada Eagle Forum:**

We support the concept of this bill. One of the things we've found is that, oftentimes, State agencies do not follow the law and their own regulations.

There is a problem in government at times without direct supervision. People in these agencies are not complying with the law, or their own regulations. This puts the citizen at a tremendous disadvantage, because they have to hire an attorney to right these things. It's very difficult because they're going against the resources of the government. This is a problem where many individual citizens have few resources to try to protect themselves in these circumstances. So anything that can encourage government employees to obey the law, to protect the rights of the citizens, is a very good thing. I don't know if this is the exact answer and you may have better answers, as have been discussed here today, but we certainly promote and support this concept.

**Lynn Chapman, Vice President, Nevada Eagle Forum:**

No matter who you are you have to follow the rules and regulations, that's the way life is. I think that our own government entities should probably learn to follow the laws, and they should get used to it.

**Assemblyman Seale:**

Mrs. [Janine] Hansen and I agree on this issue.

**Co-Chairwoman Koivisto:**

Is there any other public testimony on A.B. 268? We'll close the hearing on A.B. 268 and open the hearing on A.B. 269.

**Assembly Bill 269: Revises provisions related to voting at poll. (BDR 24-1138)**

**Assemblywoman Sharron Angle, Assembly District No. 26, Washoe County  
(part):**

Assembly Bill 269 appears to be a simple bill but I don't think it is. As I talk to you about the impetus of this bill I'll be referring to this packet ([Exhibit B](#)). This last voting cycle we saw some distressing abuses. As a nation we're becoming more aware that people want to get around the rules when it comes to voting and they're not as honorable as we have been in past generations. When we put our voting laws into place we expected people to be honorable, because we have an honor system. There are certain regulations and provisions in our law for those who can vote. The requirements are that you be: a citizen of the state of Nevada, over 18, and not be a convicted felon, unless your civil rights have been restored. Those things are accepted on your honor. When you fill out voter registration they ask for those things but they don't require any proof.

What brought this on was a desire, on my part, to tighten this up a bit. In the back (of [Exhibit B](#)) you'll see some issues that aren't included in this bill. I included them so that you would have my thought processes on this, and some of the questions that I asked about this. Perhaps, in the future, someone might want to follow-up on this simple bill, A.B. 269, and do something further to make sure that the people who are voting in our state are really qualified voters.

I asked of the Department of Motor Vehicles (DMV) if we could put this on a driver's license, if we could say whether you're a citizen and if they're not a citizen of Nevada, then they would have a vertically oriented license, rather than the typical horizontal one ([Exhibit C](#)). In the back (page 16 of [Exhibit B](#)) you have a picture of the two styles. Questions that go along with this are: how much would it cost? If you're not a citizen or if you are a felon, could that be marked? I can see all kinds of applications for identification like this, but that's not what this bill is about. I wanted you to have that for a reference, so you can see it.

I've been thinking about how to tighten the regulations a little on voters, and how to know that the person who's voting is truly the person who's eligible to vote in Nevada. This requires that a person present a form of ID [identification]

when they go to vote. When you go to vote they ask you who you are and look it up on the rolls, but you don't necessarily have to present identification at this point. I did, when I voted this time because my election board was asking everybody for identification, and I gladly gave it. I don't want someone voting instead of me, or someone voting instead of someone who is not there any more, perhaps someone who moved out of the state.

[Assemblywoman Angle, continued.] This is a little thing that says we want to know that you are who you say you are. On the bottom of this (page 2 of [Exhibit B](#)) you'll notice that Section 2 has been stricken and Section 3 has been added that states "form of valid identification." This comes from the Help America Vote Act (HAVA), and I have included a copy of the U.S. Code, if you'll look on page 10 ([Exhibit B](#)) you'll see that:

- (i) in the case of an individual who votes in person –
  - (I) presents to an appropriate State or local election official a current and valid photo identification; or
  - (II) a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

[Assemblywoman Angle, continued.] So that's basically the bill. They have to present identification when they register to vote, and I want them to present that same identification when they show up to the polls so that we know that the person who came to the polls is exactly that person who should be voting.

**Assemblyman Conklin:**

Being in employment services for many years, and having to do INS [Immigration and Naturalization Service] forms, I see a lot of problems with respect to "valid identification" because, as you know, in this country, you have to have valid identification in order to be eligible to work. My concern on page 2, line 20 is that you've used the words "current, valid photo identification." In many cases, particularly in Las Vegas, with a substantial homeless population who are eligible to vote in this country, they don't have the money to purchase a valid photo identification and it does cost money. Some of them have photo identification, but it's expired. How would you propose that we deal with that? Are these people not eligible to vote in the United States?

**Assemblywoman Angle:**

As I pointed out, this is language that's in the federal act. You'll also notice that this is not an "and" statement, it's an "or" statement. You can have this current or valid photo ID, "or" you can have any one of these other things. I'm not here

to argue the merits of HAVA, I'm here to tell you that these are the forms of identification which HAVA has in place, and I'll accept those forms. If it were my preference, there would be other things that I would like to see done, and I presented some of that to you in the back of this packet ([Exhibit B](#)). All I want is just to know that the person is the person they say they are.

**Assemblyman Conklin:**

Maybe Research can tell us, in the last session we dealt with the HAVA issue extensively. If this was recommended language in HAVA, and it's not in our law now, I would suggest that we took it out for some reason and I'd like to know what that reason was, because that may be a concern and that's the reason we took it out in the first place.

**Assemblywoman Angle:**

I have some people here from the Secretary of State's Office that would probably be able to answer that question for you. As far as your concern about HAVA itself being in our law, I did not request this in my bill. If you would like to amend that out, I would be happy to do that. All I want is that they identify themselves when they come to vote.

**Assemblywoman Giunchigliani:**

When we dealt with the HAVA issue last session, the new change was that if you registered to vote by mail, or did not make an appearance for the initial voter registration, you had to verify your identification at that time. But we didn't go back and make every person who had been registered forever, prove who they were. That's still the purpose for the registry on Election Day, to compare the signatures, and in the early vote sites.

**Assemblywoman Angle:**

I agree, that's exactly how that reads. I'm not a handwriting expert, and if I can see that a person is truly who they are, it would take some of the burden off of me, as an election board worker of having to determine that's really their signature.

I am asked all the time to present a second form of ID with my credit card, when I go to the store. I appreciate that because I want that clerk to know that it's really me that's using that credit card and signing for those goods. I don't like the thought that somebody could take my credit card and nobody would even question whether that's me or not. Voting is just as important and critical an issue as my credit, or any other part of my identity.

**Assemblywoman Gansert:**

When your signature doesn't match, then what happens?

**Assemblywoman Angle:**

I'm not sure; the Secretary of State's Office would be able to tell you how that process works now. When I worked on the election board, if something seemed out of order, we called the person in charge and had them check it, and that person in charge could make the final determination.

**John Wagner, President, Burke Consortium of Carson City:**

We favor identity checks when you go to the polls. I vote early all the time because of the convenience. In Carson City, when we voted early, they asked for a photo ID. In Carson City, you almost always have to drive to get to the County Clerk's office, or the polling place. In order to drive there you need some kind of a driver's license to get there. So I don't see where it's an imposition to present this.

I talked to Alan Glover [Carson City Clerk-Recorder]. He said they did it to speed up the operation. They've got your driver's license in advance and they've already checked your signature on the form and on your driver's license. So now you've got 3 signatures and a face that they can compare to a driver's license picture. I think this would help the process and discourage people from trying to vote fraudulently.

**Richard Siegel, President, American Civil Liberties Union of Nevada; and, Member, HAVA Advisory Committee to the Secretary of State:**

The ACLU [American Civil Liberties Union] is opposing this, for a number of reasons. First, it would impose requirements that HAVA does not. Before HAVA we had very few people required to have ID. HAVA required some people to show ID, particularly those who did not show ID at the point of a formal voter registration, either where they registered officially, or if they had a legitimate, licensed person registering them. Now, with HAVA, they do have to show an ID, but most of us do not have to show an ID to vote and this would be a considerable expansion of the requirement.

This would be a bad idea to require everybody to have such an ID. Nevada has historically had one of the lowest rates of voting in the country. We don't have a problem with too many people voting; we have a problem with too few people voting. This is one more barrier. Assemblyman Conklin mentioned one possible problem, maybe the ID is not valid. Somebody who wants to commit fraud has something that looks like a valid ID. The person who gets caught in this kind of thing is maybe an aged person or maybe another person who is driven to the

voting place. They don't have a pocketbook. They come and find out at the polling booth—maybe after waiting for an hour—that they need to show an ID. If they have a car, maybe they can go home. If they cannot get that ID, under our present law, and they're required to have one, they will, at most, be able to have a provisional ballot.

[Richard Siegel, continued.] We also have challenges of voters. You have to have an ID under a challenge, and if you do not you would only be allowed a provisional ballot, and with a provisional ballot you can only vote for federal offices. So it is a burden. It is also a burden because this kind of thing, as Assemblyman Conklin mentioned, will disproportionately affect those people who come with no car, who are minorities, and who are too poor.

When the ACLU knew that we would have a new ID requirement under HAVA that might affect 10 to 20 percent of the voters, we did radio announcements. PLAN did radio announcements too, because we knew that the black population and the Hispanic population wouldn't know that they would have to bring an ID. They are the people who would be most likely to do this.

Requiring an ID for these people is a political decision. If you don't want people who are affected disproportionately by this to vote, then it's a good idea to require an ID, or impose some other burden. Also, it would slow the process. We've added one more step. We had polling places all over the country, including Nevada, where people were waiting 1 and 2 hours in lines. Do we want to double that?

**Assemblyman Holcomb:**

You said "slow down the process." I think, probably, every other day I have occasion to show a driver's license, such as cashing a check. A young person of 21 or 22 going in to buy a beer is required to show ID. The voter takes out their driver's license and the poll worker looks at it. It takes a few seconds and it really is a very quick process. So how much would it really slow down the process for a person to pull out some type of identification? I would think it would go very quickly. It normally does when I cash a check, and I would think in the voting process it would be likewise.

**Richard Siegel:**

My point would be that it would lead to some disputes. What is a legitimate ID? Is this a valid ID? Does it meet the requirements? We would have discussions. It would be one more point that would create bottlenecks because there would be disputes in terms of what was presented, whether it was legitimate.

**Assemblyman Holcomb:**

Don't you think that the voting process is that important? We've had cases where there was question of whether the right President was elected, because of voting fraud. To this day, that made a difference in our history. Since it's such a common practice, in our society, to show identification, it's worth it to protect the sanctity of the voting process. You don't think it's worth it?

**Richard Siegel:**

I understand your question and your point is well taken, but I do believe that the negatives outweigh the positives. There are going to be classes or categories of people who will be disproportionately disenfranchised, and I don't think it's worth the price.

**Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance of Nevada:**

Dr. Siegel said most of the points I'd like to make, but there is one example I want to give you that I find very interesting. I drove my neighbor to the polls. Her ID for her driver's license is no longer valid because she doesn't drive anymore. I was talking with her the other day and she wants to get an ID card, but we haven't gotten her to the DMV to get a card yet. She's just one example of someone who might not have her purse with her. There'd be no reason for her to take it; I took her to the polls and waited until she had voted and brought her home. We have to be sensitive to people. She's voted for 61 years. I don't think it's our responsibility to ask her to show an ID. In this case I probably would have had to take her home, which is quite a distance from the polls.

It is going to take more time. I would think the registrars wouldn't appreciate this very much, because they're trying to get more people to vote, and this is going to create a bottleneck. It's one more step. Showing your ID is a bottleneck and the number of people that they processed the last election was enormous. So I would urge you to defeat this bill; I think we have a system that works. I am also a member of the HAVA Committee, and I think we already have safeguards that are there, and they work.

**Karen McEntire, Private Citizen:**

I agree with what has been said. I also would like to point out that in Section 2, the last sentence says "a form of valid identification, which contains the signature of the person." However a valid identification includes a utility bill, a bank statement, a paycheck, and a check, none of which will have the person's signature, so that's a conflict. Voting is a right, not a privilege and it is in the Constitution as a right. I do not think we should do anything that would abridge that right.

**Co-Chairwoman Koivisto:**

The following people also wished to register their opposition:

Mary Lee, Nevada League of Women Voters

Launa Wilson, Field organizer from Progressive Leadership Alliance of Nevada ([Exhibit D](#))

Otto Merida, Executive Director, Latin Chamber of Commerce ([Exhibit E](#))

I've also received a number of emails in opposition to this.

I want to point out that if we're asking people for a driver's license when they go to vote, if I'm in line in front of you, you're going to be very upset because my driver's license is never in the same place in my purse, so it would take a while. So there's another problem of slowing it down. I'm sure there are a lot of people just as disorganized as I am.

**Assemblywoman Giunchigliani:**

As we ponder any of these types of bills, I appreciate the intent, because you're absolutely correct, it is the sanctity of the voting process that we're trying to protect. Sometimes though, in trying to go to that step, we tend to overregulate as well. I've never heard a complaint, from the county clerks, or anyone else, that there was a problem that might cause us to consider making a change. Sometimes we have to take into consideration, as we hear legislation that it may be a good idea, but if it's not a problem then maybe we don't need to act. I don't recall ever hearing anything. I appreciate the concept but I just don't want to disenfranchise anyone, and I think that's possibly what might happen, in trying to fix a problem that may not exist.

**Co-Chairwoman Koivisto:**

[Closed the hearing on [A.B. 269](#).] Let's go to [A.B. 302](#) from Assemblyman McCleary.

**[Assembly Bill 302:](#)      Creates presidential preference primary election.  
(BDR 24-551)**

**Assemblyman Bob McCleary, Assembly District No. 11, Clark County (part):**

This is about presidential primaries. I'm proposing that Nevada go back to the presidential primary. We had primaries in the 1920s and 1930s and because of costs we went to a caucus system. We received a lot of attention in this last presidential election and anybody who's lived here knows that's not the norm for Nevada. The election was so tight that our few 5 electoral votes could have



swayed the election one way or another, in the eyes of those that were campaigning. So we received many visits and much attention, and it was nice. But as you know, that's not the norm. The thing that irritates me is that usually the candidates are picked long before we get a chance to give our say on it.

[Assemblyman McCleary, continued.] First, we have 5 electoral votes; it's not a lot, so we don't get a lot of attention. But if you look at the delegates that go to the conventions, this shocked me when I saw this. The Republicans, whoever wins in our caucus system that we presently have, get 28 delegates out of the 1,190 that go to the national convention. That's not a whole lot to fight for. The Democrat one is worse. The winner of the Democratic caucus in Nevada gets 27 delegates out of 4,290. So as you can see, due to the number of electoral votes and the convention delegates that we have, we don't have a lot of clout in the presidential scheme of things.

As of January, 2005, Nevada has a little over 1.1 million voters. 445,000 are Republicans and 443,000 are Democrats. Out of those 443,000 Democrats, we had caucuses, one in the south and one in the north, and I know a lot of you were there. I understand we had between 4,000 to 5,000 participants, and we thought it was a fantastic success. I want to put that in perspective. We had about 5,000 Democrats show up out of 443,000 registered Democrats in this state. That is not a lot of participation. If you look at our general elections, typically, a presidential election will draw about 70 percent of the electorate.

If we had a presidential primary, I bet we would get a lot more participation, so we need this system. First, we're neglected, we get absolutely no attention nationally, or from the candidates. Second, there's such a low participation. Assembly Bill 302 proposes to hold presidential primaries on the fourth Tuesday in February, every leap year. I worked for weeks trying to find a date that's available, in which we could shine and have our own headlines. This date would make us the tenth state in the union to hold a primary. You'll notice that it's the primaries that get the attention. The first presidential contest is the Iowa caucus, a week later you have the New Hampshire primary; and those get a lot of attention. But after that, it's not the few caucuses but the primaries that get the attention of the nation.

I've worked with Larry Lomax to try and get an estimate. In Larry's words, we could probably do this statewide for less than \$1 million, and we're figuring \$800,000 to \$1 million. This is once every 4 years. The benefit would be that we'd get a national headline in the news; Nevada would be on the map. Even though we wouldn't have more convention delegates or electoral votes, it is important because of the momentum in the early days of the campaign.

New Hampshire is a small state too. It's more important to get a victory and, it's more important for a candidate to have a headline that says they won, in the early days of the campaign. This would force candidates to come to Nevada, campaign here, spend money here, and to familiarize themselves with our issues.

[Assemblyman McCleary, continued.] This is not the first time this proposal has come before this Body. In 1996 we actually did a one-shot test to see how it would work, with just the Republican party participating. We didn't decide to repeat it. But I think this is good policy to get people involved. Larry Lomax has some proposed amendments for procedures, and I don't want to make this something that is difficult for the clerks and registrars. I'm not going to move this legislation if the registrar of voters and the clerks are not comfortable with it. I want to make sure that it's something that they can implement, and do well.

A few years back the western states tried to choose a day when they would all have their primaries. The former governor of Idaho, Cecil Andrews, said, "It doesn't matter if you're a donkey or an elephant if you're being ignored." That's the way I feel. Quite simply, Nevada is being ignored, and that's why I'm bringing this legislation forward.

**Co-Chairwoman Koivisto:**

How many states did you say have primaries now, 20?

**Assemblyman McCleary:**

I don't remember the exact amount. More than half of them had primaries, the rest had caucuses. I can get that number for you, I have it in my research ([Exhibit F](#)).

**Co-Chairwoman Koivisto:**

I'd like to know how many states have had primaries and now no longer have primaries, and why we quit having a primary after 1920 or 1930.

**Assemblyman McCleary:**

My research indicates that it was a fiscal concern in the 1930s.

**Assemblywoman McClain:**

Are you talking about an open primary or not?

**Assemblyman McCleary:**

No, I don't like open primaries. I prefer closed primaries; Democrats against Democrats and Republicans against Republicans.

**Assemblyman Munford:**

You're concerned about turnouts for the caucuses as a percentage of eligible voters. You said 5,000 people turned out for caucuses. What kind of numbers do you have on our state primaries, do we get good support there? Because, you know, there they go to the polls and vote by parties. I think you have a good idea, and it's nice, but I wonder if the interest would be there, would the people turn out and support it.

**Assemblyman McCleary:**

Typically, we get a 30 percent turnout in most state primaries. Municipal primaries get 10 to 15 percent depending on the municipality. But I think you're going to get a bigger turnout in a presidential primary. The 1996 Republican primary had, approximately, a 76 percent turnout, so it was fairly strong for them.

**Assemblyman Munford:**

People get confused in the state of Nevada because they follow the media, and it says someone "won" a state's primary. When it comes to the state of Nevada, people ask, "Can I vote too? When's my turn? Can I vote for John Kerry?" They don't understand the caucus system. Anybody can participate in that also, but they don't know the procedure, what to do, and where to go, even though it is advertised and promoted. I remember teaching this in Government and the kids were confused.

**Assemblyman McCleary:**

My last point, to reflect some of Assemblyman Munford's concerns is, I have people from California who are immigrants here, and they don't understand why we don't have a primary because in California they're so used to it. You have other people that are immigrants to Nevada that are used to having a primary, and this caucus system is very foreign to them.

**Larry Lomax, Registrar of Voters, Clark County, Nevada; and, President, Nevada Association of County Clerks:**

We're neutral parties; it's our job to execute this if that's what you decide. But we have some suggestions as to how we could do it most efficiently, help turnout, and keep costs to a minimum without impacting the election in a negative way.

[Larry Lomax, continued.] Doing it in February, in considering other bills where we're talking about moving the primary up, we would recommend that we just do it by mail. But mail is not the cheapest way to do things; unless we make some adjustments to the current way we do mail elections. Using mail-in ballots requires us, right now, to send a first class ballot out to every registered voter, and then they send it back to us first class. That's very expensive. What I would recommend is that, for this particular election, you authorize us to send the mail out by "third class standard, return requested, presorted by carrier group." If we have authorization to send it out in that manner, the rate per ballot drops from \$0.60 to \$0.0136 per voter. When you do that you pay \$0.70 for every ballot that is returned. The way we currently do it, we pay \$0.60 to send it out first class, and we pay \$0.49 for every ballot that's returned to us.

If you work it out, if we had a really big presidential primary election, where all the Democrats and all the Republicans were participating and numbered around 600,000 between the two parties, that would save you \$250,000 in Clark County alone, that's a significant savings. A second savings that would drive the cost down is if, in this particular election you don't require us to report by precinct, and you allow us to report by congressional district. That means, for all the counties except Clark County, they have 2 ballot styles, a Republican version and a Democratic version, but that's it. You don't have to identify all those precincts. For Clark County we'd have 6, because we have three congressional districts in our county, but that's all. This would drive the cost way down.

You'll get the results, but we can keep the cost down. Speaking for Clark County, the election cost would be approximately \$500,000 and that's for a big election where both parties are participating, looking at 2008 for example. If another 150,000 people register between now and then, we could get it down to between \$500,000 and \$600,000 as opposed to our original estimate, which was about \$950,000 before we looked at how we could save costs in doing this.

By allowing us to report by congressional district, as opposed to by precinct, and by relaxing the requirements for sending ballots by first class mail, you can have significant savings. The turnout was high in that last presidential primary that the Republicans conducted because people didn't have to make an effort to go to the polling places. We sent ballots with prepaid postage coming back. All they had to do was mark it and drop it in the mail. They are more likely to participate in that type of primary. These are our suggestions. I emailed Assemblyman McCleary a draft of what we would propose as a mail-only

version of this bill. We didn't have time to fine-tune it and there are some minor issues to work out

[Larry Lomax, continued.] The clerks are ready to do it, if you direct us to. But I would offer those suggestions to help reduce costs.

**Co-Chairwoman Koivisto:**

Because this has an appropriation not contained in The Executive Budget, even if it passes out of this Committee, it will have to go to the Committee on Ways and Means.

**Assemblyman Seale:**

In 1996, or we did a presidential preference election that was optional, and my recollection was that only the Republicans chose to do that. Is that correct?

**Larry Lomax:**

I wasn't here, but that is correct.

**Assemblyman Seale:**

Do you have any idea what kind of response there was to that presidential primary?

**Larry Lomax:**

I was talking with the clerks and the best they can remember, and based on what I have been told, it was in the vicinity of 60 to 70 percent. We can find the real numbers for you ([Exhibit E](#)).

**Assemblywoman Giunchigliani:**

Assemblyman Hettrick would probably know, because it was his bill. Utah and a couple of other states wanted to do it. The Democratic Party did not want to go to a presidential primary. So we agreed to let Lynn [Hettrick] do an experiment, and that's why it wound up only being the one party.

**Lucille Lusk, Chairman, Nevada Concerned Citizens:**

Our interest is not so much with the presidential preference primary, but we have a question. We've noticed several bills this session funded from the Contingency Fund, or from the fund to Stabilize the Operation of State Government. It's our understanding that those are designed to be contingency or emergency funds and not funds that are to pay for general operations. So we would like to ask you to review that and determine if, in fact, that's an appropriate source of funding in this or any other bill. Our concern is more with

the bills that deal with the funding from the Rainy Day Fund, than with the Contingency Fund. If you would take a look, it's in Section 47 of the bill.

**Co-Chairwoman Koivisto:**

I think you're right.

**Assemblyman McCleary:**

I didn't ask the Legislative Counsel Bureau (LCB) to make that provision for the funding. I think it needs to come out of The Executive Budget, I would agree with her on that. The reason that I'm bringing this forward is I think Nevada is being neglected when it comes to our presidential candidates, and the caucus system has very low turnout.

**Co-Chairwoman Koivisto:**

There's a lot of information available from LCB on this subject. You might want to put together a packet and get it to the Committee members ([Exhibit F](#)). [Closed the hearing on A.B. 302. Opened the hearing on A.B. 314.]

**Assembly Bill 314: Makes various changes to provisions governing eligibility for election and appointment to certain public positions and offices. (BDR 24-436)**

**Assemblyman Bob McCleary, Assembly District No. 11, Clark County (part):**

Assembly Bill 314 does two things. It excludes convicted felons from running for public office and changes the residency requirement, which is presently 30 days to 6 months. After talking with a representative from the Progressive Leadership Alliance of Nevada (PLAN) today in my office, I've decided to back up on some of my ideas on this. She suggested that it was kind of discriminatory. I wanted to capture the Category "A" felons and I wasn't thinking about Category "B" or "C". I wanted to get the murderers, rapists, child molesters, and violent criminals. That's who I was thinking of. I wasn't thinking of the 18-year-old kid who shoots some deer off-season and gets a Category "C" felony. I never intended that.

At first she said that sounded okay, but she came back and had some more concerns. I would like to entertain the following possibility: consider having ex-felons disclose that they are, when they file for public office, so that the voters can have that information before them. I know there are people who have problems with that. The representative from the Progressive Alliance felt

that when a criminal has served their time, and is released from parole, they've paid their debt to society.

[Assemblyman McCleary, continued.] I wanted you to know where I was coming from. With Category "A" felons, murderers, rapists, child molesters, violent criminals, et cetera, those crimes scar people for life. If someone molests a child, you can serve 5 or 10 years for that but you'll never be able to repay society for the damage you've caused. That's what I was thinking.

Two general elections ago, when a felon wasn't allowed to vote in this state, we had a gentleman file for an Assembly position who didn't disclose that he was a felon, and he had to be forcefully removed from the ballot. This last election cycle the gentleman ran again, and was able to run because of the changes in the law. The man is a convicted child molester, and I'll be darned if I'm going to sit next to a child molester in this Body, and serve with them. I will not respect that, I think it's outrageous.

I've given you my suggestion and my reasons, please consider just having them disclose that, so it's public knowledge.

**Co-Chairwoman Koivisto:**

If you looked into the statutes that are referred to, somebody with Category "A" felony or a Category "B" felony with violence or use of force causing substantial bodily harm, is already precluded from running for public office. Some of the things that you're concerned about, I think, are already taken care of.

I also understand that sexual molesters should be precluded. So that gentleman who ran, and wasn't removed from the ballot, should not have been allowed to run.

**Assemblyman McCleary:**

To address the second part of the bill, I did some research and I'm asking that we raise the residency requirement for a candidate for public office from the present 30 days to 6 months. We are 1 of only 8 states in the Union presently, that do not require a year residency, and out of those 8 states we're the only one that only requires 30 days; the rest are 6 months.

I'm not going to name names, but every election season, somebody will move across town just to run for office. I remember an Assemblywoman, and she was a very good one, who lived on the west side of Las Vegas. She ran for the State Senate and lost; she moved to my neighborhood just a couple of months before

the election, ran for office, and won. How does she represent my neighborhood? I've lived there for 23 years and these are my people.

[Assemblyman McCleary, continued.] I also noticed that the Governor recently appointed somebody to a County Commission position who, only days earlier, moved into that district. How does she represent those people? That's the policy point I want to make. Please consider that.

**Assemblywoman McClain:**

I wholeheartedly support your residency requirements. When I was a freshman legislator that was my first bill. You should have to live in your district long enough so you can find your way home after dark. I do support that part of it.

I thank you for bringing the amendments on the other part, because it was a little tough.

**Assemblyman McCleary:**

If you'll remember, I called you, and asked your permission to bring this forward, because I knew it was one of your bills, and I thought it was a good idea, and I wanted to take it forward.

**Assemblyman Conklin:**

The first time I ran for office, I think the race had 8 people in it. Of the 8 people, 2 had lived in the district more than 3 months. It was incredibly frustrating. Then a mentor of mine, who gets quite involved in a lot of races, sat me down and explained why I should be more open to the residency requirements, the felony requirements, et cetera. His explanation was this: at the end of the day, the voters decide who gets elected. It's your job, as a candidate, to give the voters the information that they need to make the best decision possible. While I disagree, I certainly don't want a child molester or rapist sitting next to me; it is not my decision to choose that for the people. It is their decision to choose right and wrong.

I would almost guarantee to you, as my colleague has said, it's much easier to run a race against that person, if you do your homework, and let the public know that these are their choices.

**Assemblyman McCleary:**

I appreciate your remarks.



**Assemblyman Denis:**

Why did you choose 6 months, versus a year? You mentioned that most of the other states have a year requirement.

**Assemblyman McCleary:**

Because the other 7 states had 6 months. I want somebody who's been there long enough to know a little bit about the people there, and be able to represent them. I know you've lived in your neighborhood forever, and I've lived in mine forever; we know those people and we know their needs and concerns. Somebody moving from Summerlin or Green Valley, moving into our districts, is not going to truly represent those people.

**Assemblyman Denis:**

I agree with you. There are some areas, especially in Clark County, where the neighborhood is so new, maybe the houses haven't even been there for 6 months. But in our sections of town, having somebody that has lived there for a few months is better than somebody that just moved in. In fact that's the reason I got involved this last election, I thought we needed somebody that knew the neighborhood.

One of my other big things is that I like to see minorities and others have an opportunity to run for office. It takes money to get your message out, sometimes even good candidates don't have the money, and they can't get that message out. I want to make it a more even playing field and I think the residency requirement would do that, if we could figure out a way to do it.

**Co-Chairman Mortenson:**

You said that you might lighten up on the part where you cannot have felons run. But you also stated that you would like to have in the bill, for sure, the idea that they have to register, and make a statement that they are a felon.

**Assemblyman McCleary:**

At least for the voters' information, just a checkbox on an already existing form. What's wrong with letting the voters have information like that? I think they're required to register when they move into an area.

**Co-Chairwoman Koivisto:**

That goes back to what Assemblyman Conklin said, about doing your homework as a candidate.

**Assemblywoman McClain:**

I wanted to mention, in my original bill, it didn't actually say 6 months. I tied it to the requirement that you have to be a member of your party, September 1 the year before you file for office.

**Assemblyman Munford:**

This is only for Assembly districts, or is it for the entire state, for every office, Governor, Lieutenant Governor, United States Senator, et cetera?

**Assemblyman McCleary:**

Every elected official in the state of Nevada would be required to live in their district for 6 months before running. I think the United States has different rules. [Co-Chairwoman Koivisto indicated that he was correct.]

**Assemblyman Conklin:**

You'd mentioned residency requirements in other states. There are two residency requirements in the state of Nevada. The first residency requirement is a state residency requirement. You must be a citizen of the state of Nevada for one year prior to Election Day. So if our primary election is the first Tuesday after the first Monday in September, then one year preceding that you have to be a bona fide resident of the state of Nevada.

The second residency requirement is a district residency requirement. So there are two requirements. I point that out because there might be some anomalies here that maybe we need to address. Look at someone like Assemblyman Denis, somebody like yourself, who have lived in your neighborhoods for a long time. Then I look at somebody, like Assemblyman Horne and myself, who live, literally, across the street from each other. How do you determine that someone is not qualified to run, because they moved across the street and into a new district, if it's the same neighborhood that they've lived in for 20 years? I don't want to capture that individual, who might be the best representative for people of that district.

**Assemblyman McCleary:**

That's a good point. Also, when we redistrict, some locations wouldn't have been in the district for 6 months. Something will need to be considered when you create a new district, about naturalizing those people who've already been there for that period of time.

**Assemblyman Holcomb:**

So are we talking about the minor exception of the person who lives across the street, then moves within a neighborhood? Was that the question?

**Assemblyman McCleary:**

I'm not suggesting making an exception for someone who lives across the street of a boundary. Where I understood where Assemblyman Conklin was going with this, was, as in the example I gave, where the districts change. Let's say they remap the districts in the next census, and suddenly you're not in the same district, and you have to be there 6 months before you can run. That was why I was making the suggestion: we need to naturalize those people when we change boundaries.

**Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance of Nevada:**

We've had some nice discussions about this with Assemblyman McCleary, and I wanted to talk with him first about the bill. Last session we had a long debate about the restoration of ex-felons' voting rights. We came to some compromises and first time offenders could get the right to vote. There were some people who felt they shouldn't be allowed to serve on a criminal jury, or immediately to run for office, so we made exceptions: a 4 year wait to run for office, and a 6 year wait to serve on a criminal jury. For Categories "A" or "B— if committed with a weapon," basically, dangerous criminals, those folks all have to wait 5 years for anything, and they have to petition the court, which is difficult and doesn't happen.

First time offenders were the group we allowed to run for office, but they still had to wait 4 years. That's enough. They've paid their debt to society. They waited 4 years. Maybe they own a business and maybe they're paying taxes. They're back in their community after they made a mistake; let them run for office. That's why I went to Assemblyman McCleary and asked him to remove the "ex-felon" portion from his bill. I do not feel they should have to disclose that.

I'd like a lot of disclosures. If someone is a domestic violence abuser or they don't pay child support, maybe that should be disclosed. But that's not how this works. That comes out in an election, or not. The voters vote for the quality of the people, and that's why you legislators are all here. I would appreciate it if you would remove that section completely, and I have no opinion on the "6 months residency" portion.

**Richard Siegel, President, American Civil Liberties Union of Nevada:**

We have already essentially accomplished what Mr. McCleary was trying to do with serious felons; we have it already in the law. I would like to address the residency requirement. We testified on a bill that was in the Senate on this

issue, which is suspended. We have a 1 year requirement already in effect. If we have 6 months before the candidate files, we could well have a requirement that is more than 1 year effectively.

[Richard Siegel, continued.] In this Legislature there is a bill that would move up the filing time, and if we have a filing time of April 1, six months back would be October 1 of the previous year. That would mean, at least, 13 months before the election to meet the residency requirement. We should not extend this because, in a city like Las Vegas, the average citizen has only been living where they are for five or six years, and it's not much different in the rest of the state. That means that 1 out of about 5 people cannot run for office, if it was 6 months. It's a year residency in the state, but if it's a year in their district, 1 out of 5 people will not be able to run for office at all. They can't run in their old district, and they can't run in their new district.

So Nevada deserves to have a very short period. Somebody mentioned that there are districts in Las Vegas where, if you've lived there for 6 months, you're just like everybody else. My daughter just moved into a district in Kalamazoo, Michigan. There's nobody there that's been there more than a year. It's not that extraordinary. The courts have their eye on this issue and they're trying to protect the voter's right of choice. They are considering the exact months they will tolerate, but as best our research can tell us, they say that you have the right to determine if somebody is a bona fide resident, and you have to give enough time so that research can be done.

But you can't, for the purpose of protecting incumbents, create an artificially long period of residence in a district. It is something that is very susceptible to constitutional challenge. This is a situation where nothing is broken. Mr. Holcomb defeated a candidate who had recently come in to the district; it was dealt with effectively through the voting process.

**Senator Steven Horsford, Clark County Senatorial District No. 4:**

I appreciate the amendment Assemblyman McCleary has. In my district I heard repeatedly from constituents about this. I agree with all the statements that have been made that the voting process is going to let the most qualified, best candidate stand. Madam Co-Chair, in response to your comments about doing the research, and letting the voters decide, I want to give some real-life examples of this. There are individuals residing in our state who have been honorably discharged from parole and probation for many years. I have examples of people who have been out of prison for 10 or 20 years. They have not received the required documents that are now given to prisoners upon their release, as a result of the changes that were passed in the 2003 session. There

are people who are still being denied the opportunity, not only to vote, but to serve in elected office. We have a redemptive society; our laws are created for that reason. When someone has committed a crime, they pay their debt to society. When they have paid that debt but we don't restore their civil rights, we've made those people less than citizen. That's wrong for us to do, and it's wrong for those people, who cannot change their circumstances.

[Senator Horsford, continued.] There are people who have committed crimes, who could—if they were able to run for office, and win—make positive changes for other people. They could change crime rates, unemployment statistics, and the lack of economic incentives that exist in some communities. We should give them the right to do that, if they indeed can offer that to our community. That could create a better society for us all, and that's why I'm against these provisions. They are already required to register many different ways, and I don't think we need to require that in this bill. I would take those provisions out. We'll be having more discussion. I hope to bring a bill forward later this session. I know Assemblyman Munford has a bill, dealing with full restoration of civil rights for ex-offenders, not only to run for office, but to have all their civil rights restored.

**Assemblyman Seale:**

Are you suggesting that there would not even be disclosure of felonies?

**Senator Horsford:**

I don't think that's necessary for a candidate running for office. As we all know, being candidates, there are a lot of things that we disclose. We are an open book for all purposes. If someone wants to know something about me, or any of us here, they can find out. We don't need this disclosure. There are other registration requirements that ex-offenders are required to make, so that information is readily available. We don't need to create more bureaucracy.

**Assemblyman Seale:**

So you're suggesting that the opponent would gain that knowledge by other, public means, and it would be used in an, obviously, nasty campaign. I was concerned about the person running for treasurer who was convicted of embezzlement. That wouldn't be a particularly good fit, whether he was rehabilitated or not. But you make a valid point, that information is, most likely, available.

**Assemblyman Holcomb:**

Do you value the concept of an informed voter?

**Jan Gilbert:**

Absolutely.

**Assemblyman Holcomb:**

And I do too.

Do you think that the voter should have all the facts to make an informed decision, to make the best decision that they possibly can?

**Jan Gilbert:**

Of course. And candidates do a good job of mailing out literature that tells voters about the differences between them and their opponents. I read those materials, read the newspaper, watch debates, et cetera. There's lots of information out there. I do think people should be informed. But if someone has finished, and paid that debt, and they are living a good life, being good citizens, paying their taxes, and doing the right thing, let them go. Let them run for office and do the best they can. That's the fair way to do it.

My organization did a massive voter registration drive for ex-felons. We put up billboards and ran radio ads. We really advertised to ex-felons, if they needed help, to come to us, regardless of political affiliation. I helped people get their right to vote, and it was a very moving experience. Most of these people had been out of prison 10 or 20 years, and they just found out they could vote, and they were thrilled. I had someone call me in December who wanted to register even though the election was over. I believe in the process.

**Assemblyman Holcomb:**

If a person was running for state treasurer, and he's a felon, an embezzler, don't you think that the public has a right to know? Would that make a difference in their vote? I think it would, in my case. Do you think they have a right to know?

**Jan Gilbert:**

I believe the person who ran against him made it very clear that he was an embezzler, and I believe the individual lost. I remember that election. The information comes out.

**Assemblyman Holcomb:**

You don't think the public has a right to know? The public, somehow, is going to have to find out, on their own, without a disclosure, that this hypothetical person is an embezzler, an ex-felon, running for state treasurer.

**Jan Gilbert:**

I've been involved in a lot of campaigns. There are some times that I wish information would come out about candidates, their behavior, not paying child support, being domestic violence abusers? Those things don't come out in elections, they don't, or they haven't in the past. I would like it to come out, but it's still the candidate's job, when they run for office. You do the best to frame who you are; they frame who they are, and the people vote. If your opponent is an embezzler, I would think that would be in your literature.

**Assemblywoman Giunchigliani:**

Four years ago I started working on the issue of restoring rights for ex-felons. The case that triggered it was a gentleman who was 65 years old. He said that Nevada was one of the only states where you don't get an automatic right to vote. He was 18 when he committed a felony. The crime he committed is no longer classified as such—driving without a driver's license, and something else. But it was nothing that you would normally think would be a felony.

We tend to think that felonies are the most horrendous crimes. Most felonies, years ago, were for what we would call misdemeanors. He called about two things. He didn't have the right to vote, and the City of Henderson was making him register as an ex-felon, and carry a card. He owned his own business, he hadn't had a single problem, and at 65 he said he was embarrassed. He wanted to be able to tell his grandchildren that he didn't have to file as an ex-felon. We found out they were illegally making him do that. Ironically the police were not enforcing the law correctly. And most importantly, he wanted to be able to say he'd paid his debt, he messed up when he was 18 and would like to be able to vote. That's how I got involved in working on this.

I do believe we are a redemptive society. When we decide that you're going to be punished, you do your prison time, and then you're supposed to be allowed back into society. We've never re-enfranchised individuals. We've continued to keep segregation, mostly of minorities, who never get back in to society and are allowed to assimilate. We put barriers on the jobs they are allowed to hold. In most places they can't get a job in public employment, regional transportation.

So where do you go when you get out of prison with \$21, no ID, no rights, and no opportunity to get employment? We tend to set people up for failure, rather than asking how we can help them become good citizens again. Most states automatically give them all their rights back when they walk out the prison door, not just voting rights. In Nevada, this Assembly passed an automatic restoration for everything. Through negotiation and thinking, we came up with a good bill which was defeated. We came back with some steps that gave people

the right to serve on a civil jury after a few years, and they could earn their way to a criminal jury. After they've done that, they're whole. This is a step backwards from where, I thought, we are trying to go. I don't think there's a person in this room who doesn't have a family member or friend, who at some point had some form of a felony case.

[Assemblywoman Giunchigliani, continued.] We tend to think, myopically, that every felon was a murderer, or something. However, they don't get their rights restored automatically; they have to petition the court. But if we want people to act humanely, we have to treat them humanely. I urge that we not go backwards but to move forward to help people assimilate back into our society.

**Richard Siegel:**

I just wanted to reinforce the concept of our redemptive society. For those of you from Clark County, Hank Greenspun was a felon; he helped build Las Vegas. The Nevada Supreme Court gave Harry Claiborne back the right to practice law. We have people throughout our gaming society who have had problems, particularly before they came to Nevada. It's part of our culture and our situation. We, of all states, should not be moving in the direction of this kind of restriction. We are a special state. If you read Richard O. Davies' *Mavericks*, a third of the people who made Nevada, had problems, some of whom were felons. It's a wonderful story and it's really part of what Nevada is all about.

**Co-Chairwoman Koivisto:**

Let's go back to the part of the bill that changes the time. We have a constitutional amendment, Assembly Joint Resolution 10 and there are some variations between the statutes and the *Nevada Constitution*. That might be a better place to deal with the time question.

**Janine Hansen, President, Nevada Eagle Forum:**

I have concerns about this. When I've been out petitioning, one of the things I find is that a lot of young men think that they can't sign petitions. I know it's because they're felons that many of them say that. I think about all the years they may be in that condition and not participating. Someone, after they've paid their debt, should be brought back into the process. Felons also have concerns and experience to share.

Sometimes experiences, difficulties, and mistakes we make in our lives can make us better people, because we are more compassionate, concerned, and have a broad understanding that everyone can make mistakes. There should be an opportunity in life for forgiveness, to rebuild, and make a new life. I've



known many people who've made serious mistakes in their lives, they've paid a price, and then they have gone on and given much to society.

[Janine Hansen, continued.] Our founding fathers were charged with treason. They would have certainly been felons, and probably would have been put to death. But they were honorable men, fighting for a good cause. During and after the Civil War, whatever side people were on, the men in the South lost their ability to vote. Later on, they were responsible for others losing their right to vote. We want to be very careful in maintaining the right to vote for those who are honorable, have paid their debt, and should have that right.

As others have said, through free speech and through the operation of the campaign process, information, like if someone is an embezzler, is certainly going to be available and come out. It isn't necessary to mandate that we give someone's life history when they're trying to have a restored life and contribute to society.

About the 6 months: if the primary is changed, and we had candidate filing in January, that would move the date that you had to be resident in that district up to almost a year and a half before the election. That's a significant amount of time. That will cut down on the number of available candidates.

If you're concerned about whether someone is really a resident, which is a legitimate concern, 3 months would be adequate to have the time to find out, for sure, if they live in the district. I don't think you need 6 months. In the Independent American Party, we have many young people running for office. We had a higher percentage of young people than any other party. Young people tend to be more transient. They're moving out of their parents' home, going to college, getting married, et cetera. So they would be more likely to be impacted by this than others.

I do support the idea of only appointing people who have lived in Nevada at least 6 months. And although I'm concerned about the 6 months, I think 3 months would be adequate.

**Cliff King, Chief Insurance Assistant, Division of Insurance, Nevada Department of Business and Industry:**

We're expressing concern with Section 13, appointment of people to boards. The Workers' Compensation Appeals Panel, authorized under *Nevada Revised Statutes* (NRS) 616B.760, has specific rules for who can be appointed to this panel ([Exhibit G](#)). There are two areas of the bill that concern us. Currently, the panel must have two representatives of private carriers. We currently have two

Workers' Compensation carriers domiciled in Nevada, but there's no guarantee that they'll stay here forever.

[Cliff King, continued.] The other concern of ours is the representative of the advisory organization who administers appeals panels for grievances of employers in other states. This individual works for us through the National Council on Compensation Insurance, and lives in Boca Raton, Florida. They handle 5 western states' appeals panels. There is an exception in the bill, "if they are a member of another organization" then they would be able to be a person on the appointed panel. Being an employee of a company does not equal being a member of an organization. So we were concerned that this would create unintended consequences and this may also apply to other panels or boards.

We're not for or against; we're merely pointing out a concern.

**Assemblyman McCleary:**

I leave you this bill to process if you wish.

**Co-Chairwoman Koivisto:**

When Mr. Mortenson hears A.J.R. 10, which deals with the residency part, you might want to deal with your concerns in that constitutional amendment.

**Assemblyman Munford:**

As Senator Horsford said, I do have a bill on ex-felon's rights, but it's going to be heard in Judiciary. So this will come up again.

[A letter, [Exhibit H](#) was submitted by Launa Wilson, Field organizer, Progressive Leadership Alliance of Nevada, in opposition.]

**Co-Chairwoman Koivisto:**

[Closed the hearing on A.B. 314.] We're adjourned [at 7:11 p.m.].

RESPECTFULLY SUBMITTED:

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Celeste Gunther  
Committee Attaché

APPROVED BY:

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Assemblywoman Ellen Koivisto, Co-Chairwoman

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Elections, Procedures, Ethics, and Constitutional Amendments

**Date:** March 31, 2005

**Time of Meeting:** 3:49 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
<u>A.B.</u> <u>269</u>	B	Assemblywoman Sharron Angle	Information about voting, identification requirement
<u>A.B.</u> <u>269</u>	C	Assemblywoman Sharron Angle	Memorandum, response to request for information
<u>A.B.</u> <u>269</u>	D	Jan Gilbert, Progressive Leadership Alliance of Nevada	Letter in opposition
<u>A.B.</u> <u>269</u>	E	Otto Merida, Latin Chamber of Commerce	Letter in opposition
<u>A.B.</u> <u>302</u>	F	Assemblyman Bob McCleary	Information about state primaries
<u>A.B.</u> <u>314</u>	G	Cliff King, Chief Insurance Assistant, Division of Insurance	Information about the Appeals Panel for Industrial Insurance
<u>A.B.</u> <u>314</u>	H	Launa Wilson, Progressive Leadership Alliance of Nevada	Letter in opposition