

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

**Seventy-Third Session
May 5, 2005**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order at 3:51 p.m., on Thursday, May 5, 2005. 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 Bob Beers, Clark County Senatorial District No. 6

STAFF MEMBERS PRESENT:

Michelle Van Geel, Committee Policy Analyst
Sarah Gibson, Committee Attaché

OTHERS PRESENT:

Nancy Howard, Assistant Executive Director, Nevada League of Cities and Municipalities
Sabra Smith-Newby, Legislative Advocate, representing the City of Las Vegas
Larry Lomax, Registrar of Voters, Elections Department, Clark County, Nevada
Lucile Lusk, Chairman, Nevada Concerned Citizens
Lynn Chapman, Vice President, Nevada Eagle Forum
Alan Glover, City Clerk-Recorder, City of Carson City, Nevada
Renee Parker, Chief Deputy Secretary of State, Office of the Secretary of State, State of Nevada
Janine Hansen, President, Nevada Eagle Forum
Richard Siegel, President, American Civil Liberties Union of Nevada, Reno, Nevada

Co-Chairwoman Koivisto:

[Called meeting to order.] We will open our hearing on S.B. 252.

Senate Bill 252 (1st Reprint): Revises date for primary city election and general city election in cities in certain larger counties. (BDR 24-971)

Senator Bob Beers, Clark County Senatorial District No. 6:

Senate Bill 252 has been through a couple of iterations, but essentially the policy decision before us with this bill is the concept of moving the off-cycle city elections onto the same cycle as the rest of us. The motive behind it is substantially fiscal, because they will not have to hold a whole other election for the city. There is also a citizen participation angle to take as well, because turnout cannot get any better than last November. The city elections typically have considerably less turnout than that.

The bill applies to all of the cities in Clark County. Those are Boulder City, Henderson, Las Vegas, Mesquite, and North Las Vegas. Originally, we encountered some opposition from some cities who were concerned that in the year of the shift we would create a shortening of the normal four-year term of office. Amendment number 591 was adopted into this bill. This amendment deleted Sections 2, 3, and 5 of the bill, which makes reference to shortening terms of office. Therefore, you must essentially err on the longer term of office

rather than the shorter side. In the year of conversion to this plan, there would not be a short term created, but in fact a longer term.

[Senator Beers, continued.] Page 2 of the bill establishes the switch of the election to the November cycle for Mesquite, which is the only general law city in Clark County. In Section 5, we go through each of the subsequent charters of the local governments and make this similar change.

Co-Chairwoman Koivisto:

Were there concerns from the cities other than the length of term?

Senator Beers:

The only other concern that I am aware of is shortening the maximum amount of time that councilmen can serve based on the limited number of terms.

Assemblywoman Gansert:

Since you didn't go with the shortening of the different positions, are they now six years? How did you work that out?

Senator Beers:

I think it is left to the city as to how they want to handle that. My suspicion is that at the point of conversion there would be a series of six-year terms created. It depends on when the conversion takes place; it could also be a five-year term.

Assemblyman Seale:

You mentioned that the cities in Clark County were all comfortable with this, but what about the rest of the State?

Senator Beers:

It only affects Clark County, because of the 400,000 population. It affects only Clark County for another couple of months, and then Washoe County will fall under this category too. They are growing. Someday we will have to go through and revise all these population limits.

Assemblyman Seale:

You also indicated that it might have some obvious fiscal impact on the local entities. Do you have any idea how much?

Senator Beers:

I do not. I can obviously see how it would.

Co-Chairwoman Koivisto:

It seems like it might save them some money if they do their elections at the same time as the November general election.

Nancy Howard, Assistant Executive Director, Nevada League of Cities and Municipalities:

We are in opposition to S.B. 252. We were here not very long ago with another one of our bills that actually did this same thing for three charter cities in Elko County. However, we do believe that this is a local issue, and it should be decided individually by each city. This mandates the change, whereas the cities in Elko County wanted the change. In addition to that, the terms seem to be shortened, not extended as we did for some of the cities in Elko County. The first reference to that is on page 5 and is Boulder City's charter. It references the first change of June 2003 and then states that they would serve until their qualified successors are elected and sworn into office. That would happen in November 2006, which is actually a three-and-a-half-year term. I don't believe that the *Constitution* prohibits shortening an existing term. I think that is a problem in itself. That is consistent all the way through with all of the charter changes in here.

The other issues that we see with this is that when you get into a county, especially the size of Clark County, and the size of that ballot, a city's identity may truly be lost. Their initiatives and questions will appear at the end of a ballot where you have all of the federal, state, and county offices. The ballot size is of concern to some of the cities and to the League of Cities. There could also be issues with competition and races for advertising space when everyone is running at the same time. This is really one of the reasons why cities had the spring elections, but more and more you are seeing some change to the November cycle if it fits their citizens' needs.

Assemblyman McCleary:

Were you able to voice your opinion in the Senate regarding this bill?

Nancy Howard:

In a roundabout way. I did speak with the Senator briefly. I did not testify on the bill. This hearing actually came up during crazy week and we missed it.

Assemblyman McCleary:

I was just asking because Senator Beers did not realize that there was any opposition to it.

Senator Beers:

I may have been mistaken. Maybe the amendment to this only addressed concerns expressed by the City of Mesquite. As I am looking at the amendment a little closer here, it looks to me like it just addressed those concerns. That may be something you want to entertain extending to the rest of the jurisdictions.

Sabra Smith-Newby, Legislative Advocate, representing the City of Las Vegas:

[Submitted [Exhibit B](#).] The City of Las Vegas is opposed to S.B. 252, which would change the dates of municipal elections. During the Las Vegas City Council meeting held yesterday [May 4, 2005], the Las Vegas City Council directed the City Manager's Office and Legislative Lobbying Team to oppose this measure. No doubt you will hear testimony supporting this measure and its cost-savings benefits. The City of Las Vegas understands these arguments, but believes that the benefit to the city and its citizens is greater than the potential cost savings from this bill.

As it stands, the City of Las Vegas elections are distinct and nonpartisan, which we believe best suits the nature of our government and the services we provide. If our elections were included in the larger ballot, our nonpartisan offices would be considered with the whole host of partisan issues and races that are incompatible with the way our city does business. The City of Las Vegas is a local, grassroots government that responds to the requests of citizens. We handle what might be considered the minutiae of government—street lights, potholes, and weeds in the public right-of-way. These are not partisan issues. Likewise, citizens do not select their city representatives on the basis of partisan stances or on the basis of grander political issues. Instead, they select their city representatives on the basis of responsiveness to their needs at the most basic, rubber-meets-the-road level.

In addition to being inconsistent with the nature of local government, inclusion of municipalities into an already long ballot eliminates the emphasis on local government issues. While some might argue that it would bring more voters to the polls, we believe that any increased turnout would be counteracted by the loss of emphasis on local government issues among larger state and national issues. In addition, a longer ballot will increase fatigue among voters who will see some of the longest ballots ever distributed in the State of Nevada. In an era where we are fighting for more interest in government rather than less, this measure endangers interest in the most local level of politics.

Finally, the City of Las Vegas already pays for its own elections in an agreement with Clark County. We have traditionally budgeted for these costs and work in

conjunction with Clark County to keep costs as low as possible. I have included for you a listing ([Exhibit B](#)) of actual or approximate costs of each election with my testimony. Again, while testimony may support cost savings as a result of this bill, we believe that the cost savings do not outweigh the harm to the democratic process for municipalities.

[Sabra Smith-Newby, continued.] Although this bill may shorten the term of our elected officials, that is not necessarily the issue for us, because it may also remove them from a term limit and allow them a term beyond what they would normally be able to hold.

Co-Chairwoman Koivisto:

What is the turnout in a municipal election?

Sabra Smith-Newby:

It really depends on the election. Some of the elections have just a couple thousand. If there is just one ward and a special election, then that varies from the city as a whole. I can get you those numbers for the past couple of elections.

Co-Chairwoman Koivisto:

I think the Committee would be interested in what the voter turnout is for the city elections, probably for all of the city elections that we are talking about here.

Senator Beers:

I spoke with the Clark County Registrar of Voters earlier today, and he indicated that the turnout for the special election in Las Vegas was about 7.5 percent. This wouldn't change special elections, of course.

Nancy Howard:

Boulder City had a special election last year. I believe their turn out was right around 80 percent. It does vary greatly from election to election and ward to ward.

Co-Chairwoman Koivisto:

We need to see those numbers. That would help greatly.

Assemblyman Conklin:

Out of 414,000 total registered voters, 31,000 actually voted. My math says that is significantly below ten percent in a primary election. Why would the city think that it is better for the voters to have a separate election in which fewer

people actually vote, than saving money and having more people heard on Election Day?

Sabra Smith-Newby:

If I could speak for my elected officials, I believe that they would say that although there would be a higher turnout, they believe that their issues would be drowned out between state and federal elections. Although you may get more voters, the quality of their understanding of the issues may be less, because there is more information. They may not concentrate. They are afraid that the issues will be drowned out, that their message won't get out, and there will not be as much concentration on the issues.

Assemblywoman Giunchigliani:

I appreciate you having to do the dance for your elected officials, but it is an incumbent protection to not have them. They won't get drowned out. There is a drop off on it no matter what. People don't vote for school boards or the State Board of Education; that is where your drop off comes in. City councils and county commissions are key races. I just think that they should all be at one time so that the voters all have a choice. I still get calls even on the mayor's race because everyone wants to vote for him because he is popular, but they don't understand the line between county and city. The city council will not get drowned out. I don't see how that would happen.

Assemblyman Denis:

One of the things that I did in that last couple years was to research who votes and who doesn't vote. I noticed that the same people voted in city council races that voted in the other races, so it is not like you are polling different people. It is the same people who are voting. I don't buy the argument that there is a special thing there with the city council races.

Assemblyman McCleary:

I must have misunderstood what you said. Did you say that the lower the turnout, the better the quality of the voter? Could you correct me on that?

Sabra Smith-Newby:

Although I believe that some of those words did come out of my mouth in close proximity to each other, I must not have fully articulated what I was trying to get out. The City Council directed the City Manager's Office to oppose this and believes that when they have an election where they are the only issue out there, their message gets out clearly and those are the only issues being considered. When they have voters come, those voters have only those issues

and candidates on their mind, rather than much grander national issues on their mind as they should for a larger ballot that includes state and national figures.

Nancy Howard:

As far as the Nevada League of Cities is concerned, we don't oppose moving the elections to the fall cycle; however, we ask you to allow those entities to do it on their own schedule. We have been proponents of bringing legislation before you to change those elections. We did it last session for general law cities, and we did it this session for Elko County cities. I think this is a trend, but we do believe in local control and allowing the cities to decide when the time is best for them to do it.

Senator Beers:

I am having a little trouble determining if they want to do it or they don't want to do it. One issue that was raised is the fear that this change would make the city elections seem partisan. Probably half of the races on fall ballots are nonpartisan judge and Supreme Court seats. There is a precedent for having nonpartisan races on that fall ballot.

Co-Chairwoman Koivisto:

On the flipside of that coin, many of the folks voting know the party affiliation of those they are voting for, be it city, county, or whatever.

Assemblywoman Giunchigliani:

You mentioned the issue of judges. I didn't bring it back again this session, but I will throw it out there that we may at some point want to entertain the constitutional amendment again to create district seats of rotations for elections of judges so we don't have every district court judge up at the same time every session, which is insane. Maybe we might want to add that to a constitutional amendment we have going now to at least get the process moving forward. It will not only save time and money, but it actually makes sense for us to have staggered terms so that there is a group rotating on and off. When you mentioned the judges, it triggered that thought. I don't know if we have any bill drafts left or if there is anything out there similar. We may want to remember to consider that.

Larry Lomax, Registrar of Voters, Elections Department, Clark County, Nevada:

Clark County does support this bill. We have looked at the cost of putting on municipal elections for the past several years. Municipal elections are different than even your elections, in the sense that in the cities, if someone is elected in the primary with more than 50 percent of the votes, they don't go onto the general elections. Very often in the cities election, the big election is the primary

and the small election is the general. That is the case in most of the cities right now. Everyone in Las Vegas is eligible to vote in the primary, but only Ward 6 is voting in the general. It is kind of hard to give you a set cost of elections, because they are all different. We estimate the average savings to the taxpayer for putting on a general and primary municipal election for those five cities is about \$1 million. This year it is going to cost about \$600,000 cumulatively to put on the primary election for the cities, and about \$400,000 or more to put on the general election.

[Larry Lomax, continued.] I want to emphasize that when I say we are saving \$1 million, that is \$1 million to the taxpayers. We are still going to have to sit down with the cities and negotiate how we are going to work out the contracts. Someone out there is going to save \$1 million.

Assemblywoman Giunchigliani:

Do you direct bill? Is that how it works then; they reimburse you for those costs?

Larry Lomax:

In most cases. Sometimes for printing we have the printer bill them directly; for trucking, we have them billed directly. For manpower, recruiting, and training, we bill them for those costs.

Co-Chairwoman Koivisto:

We will close the hearing on S.B. 252 and open the hearing on S.B. 329.

Senate Bill 329 (1st Reprint): Provides for option of voting “no preference” for ballot question or office. (BDR 24-1328)

Senator Bob Beers, Clark County Senatorial District No. 6:

Senate Bill 329 requires that something similar to “none of the above” be added to every race on the ballot. The reason is that under HAVA [Help America Vote Act of 2002], there is a requirement that you be warned if you are not voting in a race. We heard testimony from people who had decided that they didn’t want to vote in certain races, because they were not familiar with the people and had not done their research. They wanted to vote for the big issues, the ballot questions, and the President. When they got to the end of their balloting, the computer said, “Wait you shirker, you have not voted in a particular race.” We talked to one husband and wife. The wife managed to navigate the exit screen without voting in a race that she didn’t want to, but the husband gave up and

ended up voting in the race that he didn't want to. We figured the best way to handle that is to provide a proactive option on each screen of your ballot where you can say that you don't want to vote in this one. There is still the possibility that someone could not make a selection at all in one of those races. They would still be flashed with the civic responsibility guilt trip. For people who purposely didn't want to vote in a particular race, they would be able to exit cleanly.

[Senator Beers, continued.] We selected the language of "no preference" to "none of the above" thinking that it was a little less offensive to everyone. This is an unusual display of sensitivity by the Senate.

Assemblyman Seale:

Don't you think that could cause emotional harm to candidates who are beat by no preference?

Senator Beers:

We hope that it would cause less severe emotional harm than getting beat by none of the above. It is a problem. The way the law is written, you cannot technically get beat by no preference; no preference can get more votes than you do, but you still win.

Assemblywoman Gansert:

I think this is a good idea, because with electronic ballots it does try to compel you to vote. It is probably confusing to some individuals, maybe even seniors who have not used a lot of electronic devices before. I think no preference is very polite.

Lucile Lusk, Chairman, Nevada Concerned Citizens:

We are here to speak in support of S.B. 329. We had a number of calls from individuals after this last election who were quite concerned, having been the recipient of the electronic message. We are very concerned that their ballots might be thrown out, because they didn't vote in every race. We spoke in favor of using the term "no preference" as opposed to "none of the above." No preference could even mean that both parties were equally good and they couldn't decide.

Lynn Chapman, Vice President, Nevada Eagle Forum:

We too are in favor of this bill. I was one of those people who were having an argument with the computer. It kept telling me that I didn't vote for some person. I heard other people say the same things up and down the line, so I know I was not the only one having a problem with the computer. I think no

preference is really more accurate than none of the above. I think a lot of the time people don't know who to vote for or are not sure about something, and I think no preference is more accurate.

Co-Chairwoman Koivisto:

Let's bring S.B. 329 back to Committee and close the public hearing on it for now. Let's move on to S.B. 386.

Senate Bill 386 (1st Reprint): Makes various changes to provisions governing elections. (BDR 24-311)

Larry Lomax, Registrar of Voters, Elections Department, Clark County, Nevada:

Senate Bill 386 actually is the clerk's bill. It is an attempt to make the election process run more smoothly and is a reaction to some of the problems that we had in the past. Quite a bit of the bill is cleanup and conforming language. The cleanup focuses on the fact that we no longer have paper ballots in Nevada. Everybody has electronic voting machines. The law is currently full of references to punch cards and paper ballots. As I go through this, when I say "cleanup," that is what I am talking about. The only other issue that occurs repeatedly in here is that the law uses the word "roster book" and "poll book" interchangeably. They both mean the same thing, so we chose "roster" and cleaned it up in that manner.

There is actually no change with Section 2; that is already in the law. They moved it up to the front of the bill as part of a bill drafting methodology. Section 4, on the left hand side of the page, those are currently in the *Nevada Administrative Code* (NAC). This would just bring this into the law. On the right hand side on page 3, these are new actions. All of these provide rules for who can go into and observe a polling place and some procedures by which to do it. There was confusion in the last election; we ended up in court over one of these issues. Hopefully, this is an agreeable solution. We have essentially said that any party or candidate can fill out a letter and assign a poll watcher. We have asked for limits on that, so that you wouldn't put in more than one. In the last election we had polling places with 14 poll watchers, several of them from the same organization. I don't see a need for that. This is just to help us maintain some control.

Also, this would clarify that someone who is a poll watcher can stay after the polls are closed as long as they stay out of the way. They are welcome to

observe what is going on; they just can't interfere with the process. That was an issue in the last election.

[Larry Lomax, continued.] Section 5 has wording that is currently in the regulations; it would just be brought into the statutes. It talks about how many registration forms someone can request. After 50 they have to fill out a Secretary of State form that says what they are going to do with them and how they are going to use them. It helps us maintain control of the forms.

Alan Glover, City Clerk-Recorder, City of Carson City, Nevada:

We had quite a discussion on the number of forms. This issue came up in the Senate and here is where the language is for that.

Larry Lomax:

Another issue that came up in the Senate was trying to ensure that the voter is provided a receipt. If someone is registering voters and is going to keep the form and turn it in for the voter, they will give the voter a receipt. Right now there is nothing in the law that says they have to give them that receipt. This would make that statutory. It also asks that they inform the voter that they are not registered until that form is turned in to us.

Paragraph (c) states that they would be required to turn the form in to us within 7 days of the time they collected it. I know there has been some discussion about that time period. The law currently says 10 days and that it is a felony if you don't turn it in within that time period. We are asking to move it up to 7. We had a lot of problems in the last election with astronomical numbers of registration forms being collected. They would register voters, take their form to Kinko's, and duplicate them. The forms had to be sent to Washington D.C. before they got paid for their forms. The net result was that there was two weeks between the time the voter filled out the form and it was even turned into us. The voters start to get antsy wondering if they are registered, and they start calling us because they haven't received their voter registration cards. We were running a week behind just entering forms into the system, because we were getting 20,000 forms a week. Anything we can do to speed that up helps avoid confusion in the process.

In paragraph 2, (a), (b), (c), (d), and (e) are all putting into statutes things that would be illegal. They are pretty obvious. I don't think there is anything controversial here; they just weren't in the statutes. It says that you cannot represent yourself as an employee of Clark County or any other county when you are registering a voter if you are not one. They shouldn't attempt to influence the party they are registering in. That was a problem that we had. One

party or the other was refusing to register them if they didn't register one way or the other. That is what the rest of this is. Subsection (e) may sound ridiculous. It says that you cannot take money from a voter for registering. We had people out there charging people \$1 a form to register people. They never know who these people are. I think it is pretty straightforward and pretty clear.

[Larry Lomax, continued.] Page 5 is mostly cleanup as a result of eliminating paper ballots. In Section 11, the words "facsimile of a ballot" are crossed out, because the law currently states that with sample ballots, we have to print a facsimile of the ballot. With a touch screen you cannot really print a facsimile because you might paginate through 21 screens. It will look the way it has always looked, but it won't truly be a facsimile of the ballot.

Section 13, lines 32 and 33, is about collection petitions. A person must notify the public officer of the building at least 24 hours before using this area. None of the clerks are aware that we requested this to be put in the bill. That may be just a bill drafting issue. We don't care if that is in there or not. That is not really our issue, but it is in the bill and you should be aware of it.

With regard to Section 14, page 6, I was informed when the Senate voted on this bill, there was a lot of confusion over lines 9 and 10. This is nothing more than cleanup of ancient language. This says that if a county is using paper ballots, they can design their precinct so that they have no more than 600,000 registered voters. If they are using mechanical voting systems, including punch cards, they can limit their precinct to 15,000 voters. This has been in effect for many years, and no one had cleaned it up. I was informed that someone mistook this to mean that we were going to be reducing polling places or something of that nature. Nothing could be further from the fact. This is just getting rid of some very old language.

Page 7 states that we are supposed to be finished with recruiting our workers 31 days before the election. That just doesn't happen; we are recruiting all the way up to the end. I don't know why that was in there, but we are deleting that because it doesn't serve any purpose that we are aware of.

Section 17 talks about having three people per precinct. Electronic voting allows you to consolidate polling places and put multiple precincts on the same voting machines; you don't need the same staffing requirements. This section just eliminates that requirement to hire a whole bunch of people with no purpose in a polling place. The law currently says that we have to train the chairman of the polling place and then that person is responsible for training everybody else. Paragraph 2 on page 8 changes the law to require we train everyone who works

at the polling place. Electronic voting is a little bit more complex. The clerks do train everybody that works there, but this makes it statutory. The rest of page 8 is cleanup. Page 9 is nothing.

Alan Glover:

On page 10, line 37, this was asked for by the rural counties for the offices of town advisories. It describes certain offices that can be elected that way and people who run unopposed in these small offices. I believe you gave it to general improvement districts a few years ago. A lot of these little town boards will have only one person file and that is it. We are hoping to conform it to the other statutes.

Larry Lomax:

Page 12, line 4 deletes the section that talks about paper voting trails from the older advantage machines. Now, we have a combination of both. I think it would be clearer if taken out and the Secretary of State is going to offer an amendment. It is not that big of a deal one way or the other. If you really look at this in detail, it doesn't make a lot of sense leaving it in when Clark County is still going to be forced to use two kinds of voting machines.

Section 25 refers to public viewing of the polling places, as opposed to poll watcher viewing of the polling place. We are required to provide a public viewing area where people can come in and watch. This just clarifies that if voting is to continue after seven o'clock, because anyone in line is eligible to vote, these people can stay in the polling place if room permits. At times it doesn't, because if the line is long they will try to pull everyone inside the polling place and lock the doors to make it clear that is the end of the line. That can create a mess if a bunch of public viewers are going to stay in there too. The poll watchers would still be able to stay.

The bottom of the page is cleanup. Section 27, lines 8 and 9, clarifies that any registered voter who has trouble reading or writing English, or has trouble marking their ballot, can ask for assistance at the polling place. There are restrictions to this allowance. It cannot be your agent, employer, union representative, or a candidate. We have had trouble with some candidates wanting to go in there and help voters. This creates a terrible perception of the polling place and generates a lot of complaints, so we recommend you don't do that.

Co-Chairwoman Koivisto:

What if the person is a relative of the voter and also a candidate?

Larry Lomax:

This would prohibit that. The person can get help. They can ask for someone else or any one of our workers to help. We send one of each party in there to help. This would prohibit a candidate for nomination or election or a relative within the second degree of consanguinity or affinity. This is not a fall on your sword issue, but I can assure you that if you are observed by the crowd, our phones ring off the hook, regardless of whom.

The bottom of page 13 and page 14 is cleanup. Page 15, paragraph (a) addresses provisional voting in this section of the law. When we wrote this law two years ago, from the viewpoint of the clerks, it was supposed to make it clear that for provisional voting, if you are a registered voter, your name appears on a roster book at some polling place and you have to go to that polling place to vote. You cannot use it as an excuse to go to any polling place you want and vote a provisional ballot. Lines 20 through 24 clarify that if you are registered to vote in a county, you have to go to your polling place. In the last election, this was not clear. We were going to lose if we went to court, so any voter could go to any polling place and vote provisionally. It caused an absolute mess in certain polling places. We had 90 to 100 people voting provisionally who were all registered, but just didn't want to go to their polling place. It completely ties up all of my workers dealing with these people. It makes it extremely hard to administer an election. Our job is to ensure you that we can administer an election. I just want to make sure that this is clear. Regardless of whether we win or lose this issue, I want it to come out of this legislative session clearly stating what you can and cannot do as far as provisional voting goes.

Page 16 is conforming language. With regard to page 17, line 34, the clerks don't have a position on whether you ought to vote a full provisional ballot or just at the federal level, whichever way the legislators decide is the way that we will do it. We wrote some adjustments to the current law, which state that you vote at the federal level. This would clarify that as long as you vote in your congressional district, you are okay. If it is going to come down to a full ballot, then you are going to have to vote in your old precinct. This was an issue that we had to address in the last election. People were asking me to swear in blood that I would count it if it was in the right congressional district. Assuming things stay the way they are, this would clarify that; if they change, this would have to be addressed.

Page 18 has some minor conforming changes. The change on page 19—between lines 26 and 39—is the same we just talked about. The only change there is that a candidate can't go in and help somebody in a voting booth. Right now the law provides that if you are disabled in some manner and

unable to mark your ballot, a request can be filled out for you and signed by a designated person that requested a ballot to be brought to you wherever you are. This person is going to fill out your ballot for you and sign it for you. This request has to be signed by a physician. The only change in here from the way the law currently reads is we have some language that says the physician is acknowledging that the person requesting it is capable of directing the person to fill out this ballot.

[Larry Lomax, continued.] I think I told you the story about the Alzheimer's home where someone came in with all of these requests to fill out ballots; they were all signed with Xs. I sent someone back out to the home to see if these people knew what was going on. We couldn't find a single person that even knew that their requests had even been submitted. That doesn't mean that they weren't—I don't know—but no one was aware. Therefore, no physician should have been signing a statement saying they were capable of directing someone. I know it is a touchy issue, but that is our recommendation.

The bottom of the page and page 21 is cleanup. We are asking for four working days before the election to start processing our absentee ballots. In the last election we did not complete processing the absentee ballots until 6:00 a.m. the day after the election. That delayed the whole State's results as far as who got what. We are just asking if we can start processing these four days before. We won't know who has the votes; it is just getting these things into the system. This will allow us to provide you with more timely results on election night.

Pages 22, 23, and 24 are conforming.

Alan Glover:

This was an issue that was brought up in the rural counties. We would like some flexibility on those Saturdays for early voting. Basically, we are required to open from 10 a.m. to 6 p.m.; however, in some of the small counties, no one shows up to vote early on Saturday. I called the clerk in Storey County and asked how many people showed up to vote the first Saturday in Virginia City. She said they were swamped. I asked what she meant by "swamped," and she said about 20 people came. We want to make sure that they are open. Most of the clerks indicated that they would be open from about 10 a.m. to 2 p.m. Even in our own experience here in Carson, we have a line out the door at 10 a.m., but by 1:00, hardly anyone comes in. By 5 p.m. it is really slow. If we get one person we are lucky. We are asking for a little flexibility in that area.

Larry Lomax:

Page 26 includes language that was in another bill that was discussed in here at one time, and I know that we had problems with it. We are attempting to restrict what goes on within 100 feet of the polling place, the conversations and things that occur in there. This is a direct result of the last election. People were arguing that they had a right to talk to voters, because they were there to help. We can't allow that. We have no idea what they are talking about, and it generates an enormous amount of complaints and potential problems. We provided an amendment to the Senate because you objected to this language. They objected to our amendment and this language. I am willing to work with anybody if we can get some help with restricting what goes on inside that 100 feet. If this bill ends up in conference, then maybe we can come up with some solution. The middle of the page is conforming. Paragraph 4, which is lines 30 through 40, is already in the law. This must be a bill drafting thing where they moved it around, but that is not a change.

Pages 27 and 28 are cleanup. Page 29 is conforming and cleanup all the way down to the very bottom. The language on the next page talks about allowing us four working days to begin processing the absentee ballots in an election. Page 31 is cleanup. Page 32 has very few words changed. Right now, the law requires us to provide the state and county major parties lists of all the registered voters four times a year. There was confusion as to whether we provide it to the state, county, or both. This clarifies that we provide it to both.

On page 33, the smaller counties have requested a change. If someone requests more than 50 forms in a 12-month period, they can charge for additional registration forms. Page 34, lines 25 and 26 simply state that for county questions, the county clerk or the city clerk will assign the number of the question. It is not a big deal to us if we are the ones that assign it, but right now the law doesn't say who assigns that number. This just puts someone in charge of that. Pages 35 and 36 are conforming.

On page 37, this does not change the current law at all; it is an attempt to clarify it, although I personally do not think that it needs clarifying. It appears to because we ended up in court talking about it. This is simply a definition of when a voter is registered. You are registered when the form is delivered to us, or if it is mailed to us, it is the date that it was postmarked. That is how the law is right now, and this doesn't change that. It is just an attempt to make that clear.

Page 38 is conforming. Page 39, Section 63, is the same issue about what goes on inside 100 feet. Maybe we can find some language that will help us. The

bottom of the page is conforming. Pages 40 through 43 are conforming and cleanup. Page 44 gets rid of punch card language. With Section 73, we start the same stuff all over again in the city versions of the law. The only other thing I ask you to go to because it is different is page 67, Section 111. When you turn in your campaign contribution and expense reports, they are currently due seven days before the primary and seven days before the general. That is the same day as the last day for voters to request mail ballots. It is killing us. We are overwhelmed with mail ballot requests, and then you come in with your reports, which we have to get out immediately. We are asking to simply move it up to 14 days. Your reports would be due 14 days before the election. The whole rest of this bill and all of the pages are just changing those days in all of the places that they need to be changed. That completes our bill.

Assemblywoman Giunchigliani:

Would you be able to put together a section by section analysis, or do you have one?

Larry Lomax:

I could put one together and get it to all of you tomorrow.

Assemblywoman Giunchigliani:

Section 2 talks about electioneering and parallels it in another section?

Larry Lomax:

Section 2 is actually the current language in the law. When they did the bill drafting, they moved it here.

Assemblywoman Giunchigliani:

So we did have loudspeakers in there?

Larry Lomax:

Yes. If you go to NRS 293.740, this is just that paragraph moved to a new place.

Assemblywoman Giunchigliani:

I had some questions about Section 4. On page 3, a representative cannot move about the location and shall not leave the polling place. Isn't that a little bit restrictive?

Larry Lomax:

Not in my opinion at all. We can't have these people roaming freely around the polling place. We have to have an area designated where they can see what is going on, but they can't roam around.

Assemblywoman Giunchigliani:

Well, sometimes they have to get up and go to the restroom.

Larry Lomax:

I know; that isn't the issue here.

Assemblywoman Giunchigliani:

Same thing on (c), 3 and 4. Currently, each elected official can assign a person to a polling place. A party can assign a person. There used to be a form that I think you are referring to in here. They have to have a certificate.

Larry Lomax:

Correct. That is actually in the Secretary of State's regulations right now.

Assemblywoman Giunchigliani:

Yes, it is current. I don't know the acceptable process for when they have to apply, or what they have to do if they get sick and need a substitute. Is there a procedure or anything in place for that part of it?

Larry Lomax:

We can work that out in the regulations. Right now, the first we find out about it is when they show up at the polling place with a letter signed by the party.

Assemblywoman Giunchigliani:

In the old days, we used to call down if you wanted to assign a person to a polling place. We would get the form and give you the names. I haven't seen that in many years, so I don't know if that still happens.

Larry Lomax:

Until the 2004 election we never had a single poll watcher in the time that I was here. If they wanted to come in, they just did under the public viewing part of it. This was the first election where poll watching has been an issue. What happened in this election is that the parties called down and asked for copies of the letter. It is just a certificate that they fill out. Then they gave it to whomever, and the person would show up with this letter and say that they were appointed by the Republican Party to be an observer at this polling place.

Assemblywoman Giunchigliani:

Are you changing that in here?

Larry Lomax:

I was not intending to.

Assemblywoman Giunchigliani:

But we don't have any place other than in regulations where the procedure is outlined. Maybe we ought to look at that as well. So you are saying the form has to be into your office, either by mail or hand-delivered, in order for someone to be considered registered to vote, not upon their signing of the registration form. That would then impact the other legislation we have sent, which said if you have signed a registration form, you may also sign an initiative petition.

Larry Lomax:

That is a problem with that other bill. Right now, that bill still says what this says. That bill does nothing to change when you are registered. All that bill ended up doing was saying that if you sign your form you are deemed to be registered three days later. I think that was the language in that bill, but it doesn't change the definition of when you are registered. It just says that you can sign a petition three days prior to being deemed to be registered. I am not sure that is constitutional.

Assemblywoman Giunchigliani:

We have to get a legal interpretation. I can't see why it would be unconstitutional.

Larry Lomax:

Someone has to sign an affidavit stating that everyone who signed that petition was a registered voter at the time they signed the petition. That is what the *Constitution* says. That is the issue. You are not a registered voter at the time you sign the petition.

Assemblywoman Giunchigliani:

You are when you sign the registration form.

Larry Lomax:

No, absolutely not.

Assemblywoman Giunchigliani:

I am disagreeing with what you are saying. That has been the past practice. Whenever we did initiatives in the years past, if you signed your registration form, you could then turn around and sign the initiative petition.

Larry Lomax:

You can, that's true, but the form has to be turned into us that day or postmarked that day. That is absolutely correct, but that second step has to happen so that you are registered.

Assemblywoman Giunchigliani:

That is changing from the past practice. We have a conflict with this section versus what we have sent over to the Senate, just so that we are aware of that.

In Section 27, you are saying that if you happen to be helping a family member, but you happen to also be a candidate, you are prohibited from assisting them.

Larry Lomax:

That is what this would say.

Assemblywoman Giunchigliani:

What is even more awkward is that when some of us go door-to-door, you get to know a senior citizen or something, and you are the one they ask to go pick them up. They don't want anybody else to assist them. I think you have to be sensitive to that, so we may want to discuss that a little bit further. I didn't hear you say that it has been a problem other than people call you. I don't know that many folks even know who I am when I walk into a polling area, let alone to know to call somebody.

Larry Lomax:

This is not a fall on my sword issue. I am just letting you know when it happens, it upsets a lot of people. I don't know what they think, but they see you and someone else go in there and that upsets them.

Assemblywoman Giunchigliani:

They don't even know who I am.

You are saying that Section 28 is cleanup language? What do you do with the spoiled ballots, because we still have the punch cards that you mail out to individuals, correct? Or are those totally gone too? What do you send out to folks now?

Larry Lomax:

When we send out an absentee ballot, it doesn't mean that they are restricted to vote an absentee ballot, because everyone uses a computer system. If they come to an early polling site, or even on Election Day, it will say that they have requested an absentee ballot. We will ask them to fill out an affidavit saying that they realize that they cannot vote twice. They sign that and then we let them vote. If we have received the absentee ballot, the system will say no, they have already voted. On Election Day it will be printed where they sign their name that they have requested a mail ballot, and then the poll worker has to call the Election Department to make sure that we have not received the mail ballot.

Assemblywoman Giunchigliani:

Sometimes you have individuals, either disabled or elderly, who had requested a mail ballot at home, filled it out, and then realized they messed up the numbers or something along those lines. They can return that ballot and be issued another one, correct? Isn't that also a spoiled ballot? I just want to make sure that we don't get rid of language that may be perceived as housekeeping that doesn't allow for those types of situations.

Larry Lomax:

I will look at this again, but that was not the intent.

Assemblywoman Giunchigliani:

I didn't think it was; I was just curious.

Alan Glover:

I think we are dealing in the section here where you voted. Any voter who spoils his ballot may return the spoiled ballot to the Election Board and receive another in its place. This is the area that anticipates you voting at the polling place, not an absentee. You are correct, though. We do spoil ballots. We do put them in an envelope and we do seal them and do all those for accounting. I think this section deals with voting at the polls.

Assemblywoman Giunchigliani:

That may be the case. I don't know what NRS 293 or 297 is specifically tied to. If we could just double-check that so we don't get rid of something that you are still doing.

So, the applications returned by mail must be received by the clerk before the close of registration. What exactly is that new language in subsection 7 saying?

Larry Lomax:

No, don't just read the changed part. It is saying that you are registered as of the date the application is postmarked if it is returned by mail, or the date that it is received at the Office of the County Clerk if hand-delivered. That is currently the law. This is trying to make it crystal clear what the law says.

Assemblywoman Gansert:

We had talked about having lists or computers available at all of the sites. Then you wouldn't have the problem with provisional ballots. Have we ever priced what that would cost to be able to do that? Maybe even just the larger counties.

Larry Lomax:

We already have it.

Assemblywoman Gansert:

Just Washoe County?

Larry Lomax:

Even past Washoe County.

Assemblywoman Gansert:

I know we will deal with it at some point. That brings up the question about the computerization. So in your opinion, the hearing did not go well on requesting the \$14 million?

Larry Lomax:

In my opinion, that is an understatement. No, they did not appear to go well.

Co-Chairwoman Koivisto:

We may have to think about some money committed somewhere else that Clark County needs for voting machines.

Assemblyman Conklin:

I am almost appalled that we can buy it for every other county, except for the county that pays the largest percent of taxes into State coffers in the first place.

Larry Lomax:

We would appreciate any help that you can provide with this issue.

Renee Parker, Chief Deputy Secretary of State, Office of the Secretary of State, State of Nevada:

For the most part, we support the bill. We are essentially neutral because we don't oppose any portions of the bill. We are neutral because many of them are policy decisions for this body that we are not taking a position on.

On the spoiled ballot issue, there is a provision on absentee ballots. In the absentee ballot section in the statutes, if you apply for an absentee ballot and then you show up at the polls to vote instead, it is called a "cancelled ballot." Deleting the section on spoiled ballots does not affect that other section on absentee ballots. You still may want to have Legal double-check that there isn't anything else, but I can't think of anything else from our perspective that it would be affecting. Also, on the certificates that Assemblywoman Giunchigliani referenced for poll watchers, that is still in the regulations as well. There is a process where they are supposed to notify the clerk, and they are supposed to present their certificate to the Election Board when they arrive at the polling place. It is still in the regulations; it just didn't get moved into the statute with the other provisions.

I do have a friendly amendment ([Exhibit C](#)) that I would like to propose. We had a bill that was for the most part a companion bill, to get rid of the references to punch cards and do similar things and change some of the provisions for initiatives, to address some of the problems we had last election. It also had a move of the primary to May, and it died on the desk in Senate on the last day that it had to get out, because of some opposition to this move. Instead of amending that out, they just let my entire cleanup bill die.

The first section that we really needed relates to the voter-verified paper audit trail that we now have in all 17 counties. All we are asking is to amend the section that allows us to adopt regulations for voting systems and other election-related issues, to specify that we can adopt the regulations to address the appropriate use of the paper record. We also want to address how it is used in auditing and recounts. We adopted emergency regulations when the new voting machines came in because we had to have some procedures to address recounts and audits with the new paper trail. It was in the interim when you were out of session. We consulted with LCB Legal and they suggested that we do it with regulations, because the audit may change. We may decide that we need to audit more as we get more machines; 2 percent may not be a reasonable number. In addition, with the way that the voting machine bill went in the Senate, it looks like Clark County may end up still with those full-faced ballot machines as well as with the other machines with the paper trail. In that case, we don't want to specify, because we are going to have two procedures

for a recount. The full-faced ballots cannot be recounted in the same manner as the paper trail.

[Renee Parker, continued.] There are also issues related to the paper trail. In Clark County, in the event of a recount, that could take several days or months. We do have the vendor making an open source code counter so that you could run the paper trail through the counter and it counts the barcodes that tally the votes. It is just counting the paper trail instead of the machine count, and it is an open source code so that anybody can get in and see this. It could be an off-the-shelf barcode scanner or something of the equivalent. We are trying to make it easy, especially for Clark County, to recount those paper trails. This would just give us the means to put in all of the audit procedure and address the recounts, especially if we are not going to have the same machines.

The second part of the amendment relates to a situation that we had in the interim on a court case and our guide on the initiative that we are required to print pursuant to NAC 293.12756. The judge stated that because the guide said that when determining the number of signatures that you need, it is the percentage of the voters from the last preceding general election. In the guide, we also printed a table of the results of the 2002 election, because at the time the guide was printed, we did not have the results of the 2004 election. People were circulating the petitions between 2003 and prior to the election. Unfortunately, nobody thought to put anything else in there that said if you turn in your petition for a statutory initiative after the November election, the last preceding general election would mean the 2004 election. In that case, the judge ruled that because it wasn't in the guide, it was just an omission, but they were only subject to the 2002 numbers. We have two AJRs that specify that we would intend it to be the 2002 election.

The issue for us is that our guides are now being seen in place of legal research. He even agreed that if you went through the legal research, it would technically relate to the 2004 election. If we are going to be held to the standard of those guides being a legal treatise, we have some serious concerns about that. It is like saying that you don't have to do any case law research. If we forget to add something important, then the law could be changed. It also leads to a situation where we could just decide to put something different in the guide if we don't like what you guys do. The way the ruling stands, a court would agree that was the standard and what everyone was led to believe. That is an extreme example, but it could lead to that. They are intended to help explain the process, not to be used in lieu of legal research or in lieu of retaining counsel to answer some of the more difficult questions. Those are the only two things that we propose to add to this bill.

Assemblywoman Giunchigliani:

Could you get us a citation of the regulation? We may want to go ahead and put some components of that into the bill so that it is spelled out.

Renee Parker:

It is NAC 293.162. On the voting machine issue that Assemblyman Conklin referenced, there is another troubling aspect. The HAVA money was distributed based on the population in the state. Clark County helped us to obtain more money. The population in Clark County is the reason that we received \$20 million in HAVA funds, as opposed to some smaller state. Had it been based on the population of the rest of the state, it would have been a much lower amount. That is something to consider.

Janine Hansen, President, Nevada Eagle Forum:

I have a few concerns with this bill. On page 3, line 13, where it talks about poll watchers, it refers to one person. I think this is a little bit restrictive because of the fact that you might have to have someone taking the place of another, and you need some flexibility. If there is only one person allowed, they would have to be there from 7 a.m. until 7 p.m. and I think that might be restrictive.

On page 4, I am significantly concerned, starting with line 6. One of the things we always say we want to do is to get more people registered to vote. When anybody is out there doing a petition drive, they are getting more people registered to vote. All of those signatures that we got were not counted this time. They were rejected. All of the counties did not have the same policy. I called many of the counties, and three of them told me that they did accept them as being registered to vote. Many of the other counties didn't. There is no consistent policy in the state. I really think that when someone signs a voter registration affidavit, that is when they are registered. That allows them to sign a petition at that point of time and participate in the process. If we really want to get more people involved in the process, then we should allow that to happen, because people who are out getting signatures have the ability to register a lot of people to vote. I think that issue is very important. The same issue is addressed on page 37. Whether or not it is in another bill, I think specifically we ought to make sure that issue is covered, because I think it is very important.

Assemblyman Conklin:

I have never filed a petition before. If you are doing a petition and you register somebody to vote—there is a qualification to be a registered voter—do you check ID? What is your responsibility as a person who is registering someone? My reason for asking this is that I think there is a timeframe for that signature. I

am concerned that some of them get rejected, because the information they gave you is not correct or something like that. I am overly concerned about fraud sometimes.

Janine Hansen:

If there was a fraudulent signature, you check all of the signatures on the petition against the voter registration. That is what the county clerk does. That signature would be rejected and that voter registration form would be rejected. Say that I am registering someone to vote and they are a felon. They don't have the right to vote restored, but they fill out the voter registration form anyway and sign my petition. As far as I have any ability to know, they were registered to vote. When I sign on the bottom of the petition, I say that. Then the petition and the voter registration form go into the county clerk. If this person was at a fraudulent address, the county clerk would know that. They usually do a sampling depending on the number of signatures and people in the county. If that came up as one of the samples, it would be thrown out. I don't see that as a problem, because there is a second check later on.

Assemblyman Conklin:

I was not suggesting that it was a problem; I just didn't understand the process.

Janine Hansen:

I don't think there is a problem with fraud, and I would be concerned if there was. I just think there is the issue of getting people signed. In this particular piece of legislation on line 10, it says before seven days, which is reasonable to get that registration form in. You are not usually getting signatures up to the point of where you have to turn in that petition anyway. Most of the time those voter registration forms are turned in before they start checking if the petition is valid. If you don't turn in your own voter registration forms before they start checking the petition, then they are not possibly going to be able to count. I don't see that as an issue for the clerks.

One of the things I am concerned about on line 14 is the issue of assisting. What is the definition of "assisting"? I think that is important to know.

On line 18, it talks about attempting to influence the party registration of a voter. We need to be careful if someone is trying to register Democrats, or Republicans, or Independents, that if they did this they might be guilty of a Class C felony. I think we do that all of the time. Of course we don't say that if you are not a Democrat you cannot sign, but we do try to find more Democrats or whatever. This puts us in the position that if somebody complained about us, we are guilty of a Class C felony. That is pretty scary. We might not be willing

to register anyone to vote anymore, because that is such an issue. I think we need to be very careful.

[Janine Hansen, continued.] Let's take a look at line 24, where it talks about "except for affixing postage." I mailed in a lot of voter registration forms and sometimes when people would be out getting signatures, they would use a Washoe County voter registration form and sign up somebody from Lyon County. The only thing that I would add to this would be "or the address of the voter registration office", because the address for Washoe County is printed on that form. If they use it for another county, then you have to change the address on there. I just don't want to be guilty of a felony if I put the wrong address.

On page 5, I am very glad that Larry Lomax is not interested in keeping "at least 24 hours before using such an area" in the petition language. When you are running a petition campaign, you have volunteers and people who are being paid. If one place is not productive where you are getting signatures, you may have to immediately move them to another place, or you lose your workers. You have to have some amount of flexibility. Why does the DMV [Nevada Department of Motor Vehicles] need 24-hour notice? They should be on notice that people can come there and petition in the designated area any time that they are open. That is not necessary and that limits the freedom to petition. I would like that amended out of the bill.

Senate Bill 478 is another instrument for the Secretary of State to expand this right to petition and put government entities on notice that they do need to provide a place. That can be found in S.B. 478 in Section 10. That would be good to put in this bill. It was in a bill that did not pass, but this protects people from the abuses of the government—for example, when I got arrested. They actually have some responsibility to provide this.

In addition, in Section 3, the Secretary of State has provided some civil penalties for the public officer or employee when they violate the law. I think those people that violate the law and throw you out when they are supposed to allow you to be there ought to have some sort of penalty, instead of just citizens always having the penalties. I supported that from the Secretary of State.

With regard to page 32, Larry Lomax stated that when he testified on this, the county and the state could get a copy of the registration, but this language says "state or county", not "and." I am just pointing out that it needs to be "and" instead of "or."

[Janine Hansen, continued.] On page 37 is the same issue of when a person is registered to vote. I am encouraging you to do as Ms. Giunchigliani had suggested, that when they sign that form they are registered to vote, and that it needs to be turned in within a reasonable time. We certainly agree with that because it puts a hardship on the clerks.

**Richard Siegel, President, American Civil Liberties Union of Nevada (ACLU),
Reno, Nevada:**

I am asking for some specific deletions by amendment. I would like to see a deletion of Section 4, 2(b), which limits the access of poll watchers after polling time. I think they must have the same access five minutes after polling time as five minutes before. What happens five minutes after polling time is actually more important in most cases than what happens before the poll closes. I like that there is access after, but not that it is limited in terms of their physical ability. I think that their physical ability to observe the counting of the votes and the process involved are among the most important.

I would also like to see us delete by amendment Section 4, subsection 4, which limits one person to the polling place appointed by a party. I think that is an arbitrary thing to do. I think it is not reasonable. The party has a need for more than one person. A person could be sick and it could be a critical polling place. We are doing this by letter and it could be a critical swing district. Believe me, the polling places that we had in Washoe County had a great amount of activity by both Democrats and Republicans at polling places.

Section 27, subsection 1(a) and (b) is the only deletion that I request that does not come from language that Mr. Lomax has asked for. We have in the law that you cannot be assisted by a representative of the employer or a labor organization. I think that is anachronistic and a violation of free association. A labor organization should not have fewer rights than a church, or any other organization, to assist somebody. I think it is arbitrary to select out the employer and the labor organization. I think it comes from a time when our people were much less educated and could be led through the election process in a way that I don't think is as appropriate today. I am asking for the deletion of Section 27, 1 (a) and (b) by amendment.

One of the most important ones that I am asking to amend out is Section 31, subsection 2. This is where Mr. Lomax wants to not allow a provisional ballot to be counted if a person is registered at another polling place. That is why HAVA has a provisional ballot. He is making an assumption that he knows that they know the correct polling place and purposely went to the wrong place. The provisional ballot is for people who go to the wrong polling place. He did not

want to give these people a provisional ballot in Clark County at all. Now the language is that it doesn't get counted. Please delete that or add affirmative language that clarifies that they must be given a provisional ballot. We got a ruling from the Secretary of State's Office that they had to be given a provisional ballot during the last election. Obviously, if they have to be given a provisional ballot, then it should be counted. I am asking for the deletion of Section 31, subsection 2, and make it clear that everybody can receive a provisional ballot. That is the intent of HAVA.

[Richard Siegel, continued.] Section 34 speaks to provisional ballots being counted in the correct congressional district. I missed that for a long time. That was the practice for the last election. We have three congressional districts in Clark County, and if you happen to be in the right congressional district your provisional ballot got counted. If you were across the street at the wrong one, it didn't get counted. We have gone round and round on this. Every registrar has declared that by machine vote they can do this countywide. I plead with you to amend Section 34 to countywide counting. This is feasible. Mr. Lomax has testified at this Legislature that this is technically feasible by machine ballot. They can arrange that. I think it is very important. The closer we are to countywide voting, the more machine ballots. Some of you may wonder about party affiliation. Provisional ballots more or less load up by how the people in your district vote. If you are a heavily Republican district, there are more Republican provisional ballots. It works for both parties. This is a 50/50 state. Let's give the people the most we can give them, which is the spirit of HAVA. I don't know if HAVA survives in the other House, but be ready for that fight in terms of A.B. 455 when that comes. There is a good chance they will delete it over there.

Section 47 speaks to the 100-foot rule. Mr. Lomax wants complete control of the 100-foot area. Current law says that if we are not soliciting or electioneering, then you can have access to the 100 feet. I ask you to delete this language by amendment, because there are good reasons to be in the 100-foot area. The good reason is that people are coming from throughout the state. They have a civil right to do that and to ask people if they were treated properly and if they were given a provisional ballot. Mr. Lomax wants it both ways. He wants to limit within the polling place and outside the polling place. How do we find out if people were treated properly? I only ask that the law be left alone. No electioneering, but as far as trying to deal with voter suppression, which was going on in the last election. There were election precincts where people were not given provisional ballots. There were election districts where other intimidation went on. Please delete Section 47 and the changes to the 100-foot rule.

[Richard Siegel, continued.] I will reiterate: we need “and” changed to “or” in Section 57. Section 62, subsection 2, is the issue of absentee ballots. It is the only point that I could have misunderstood what was said about this. I want a system where if someone takes an absentee ballot, but decides that he wants to vote at the poll, he is allowed to do so.

I also agree with Janine Hansen regarding speech and persuasion when registering people to vote. I don’t mind if we keep the language in that we should not persuade people to go towards one party or another. Let’s take away the criminal stuff. Let’s amend that you should not in an admonition policy way, otherwise we are criminalizing speech in a way that is dangerous in terms of interpretation. I would leave it in, but remove the criminal sanctions.

I also agree that there should be simultaneous right to sign a petition and to register to vote. We should try to do that. It facilitates the process. The 24-hour notice for petition solicitation is a very important point as well. It never should have been in the bill. Please amend Section 13 to delete this portion. This is freedom of petition, the First Amendment of the *U.S. Constitution*. The *Constitution* says “make no law.” It doesn’t say “make a law that says you have to give 24-hour notice.”

Assemblywoman Giunchigliani:

Thank you for bringing up Section 31. I do think that flies in the face of what provisional balloting is intended to do. Most people just don’t know which precinct they are supposed to go to in the first place. The irony will be if you go to an early vote site, you will get the full ballot. This would say that if you go on Election Day—as a traditionalist—to the wrong polling place, you would not get the provisional ballot. I think this is discrimination to some extent.

Richard Siegel:

It is extremely important, as is countywide voting. We clarified that as long as we are in the same county, we would have countywide counting of the votes. Any voter in Clark County who takes a provisional ballot would be counted. This is a very important step.

Lucille Lusk, Chairman, Nevada Concerned Citizens:

To a large extent, I am barring cleanup. We are in agreement with the issues raised by Mr. Siegel and by Ms. Hansen. I do want to say that there are some very good management provisions in this bill to assist the clerks that no one has raised objections to. These are needed for cleaning up obsolete language, changing dates, and those kinds of things. However, we are greatly concerned

about the excessive criminal penalties for citizen participation in the political process.

[Lucille Lusk, continued.] An issue that has not been mentioned that we think is very important is that this gross misdemeanor applies for someone who poll watches more than one polling place. This bill specifically prohibits this. It was mentioned that a candidate could not name more than one person, but there is another provision that says that one person cannot watch more than one polling place. It is very hard to get enough volunteers to cover every single polling place. It is very easy for a person to pop into a polling place, check the list of who has voted, and then bug the people who haven't that are your supporters. We would ask that you delete that provision as well.

We are very concerned about establishing a felony for having a little bit of political party enthusiasm when you register people to vote. We candidly see absolutely nothing wrong with a candidate, which is different than a field registrar who should maintain neutrality, wanting the people who can vote in your primary to vote. While you should not prohibit someone from registering to vote, you are still going to be saying that you need them to vote in your primary. To make that a felony has a terrible, chilling effect.

We agree that the requirement for 24-hour notice before petitioning really needs to come out. One area that I would like to expand upon is assisting others to register. What does it mean to assist someone to register to vote? In the past that has been understood largely to mean that if I am assisting a disabled person, for example, and they can't fill out their voter registration form, I fill it out for them and all they can do is sign, then I need to put my name on it and say that I assisted that person, and that is why there are two different kinds of writing on this form. It was discussed in the other House—but not yet resolved—the possibility that assisting should include if I am going to keep the registration forms and turn them in, as opposed to the person turning it in themselves. We have no objection to that meaning of "assisting," but this needs defining, especially if there are going to be penalties for failing to inform people of certain things when you are assisting, like accidentally forgetting to give someone a receipt. You need to know what it is you are being held to.

We appreciate the attention this Committee has given to these very significant issues. There has been some confusion about some aspects of election law. We hope that when this session concludes, there will be some more clarity. In that process, we plead with you not to criminalize normal citizen activity and instead to encourage it.

Co-Chairwoman Koivisto:

This was a really long bill and the Committee needs time to digest everything we have heard today. We will close the hearing on S.B. 386 and bring it back to Committee for work session. We are adjourned [at 5:47 p.m.].

RESPECTFULLY SUBMITTED:

Sarah Gibson
Committee Attaché

APPROVED BY:

Assemblywoman Ellen Koivisto, Chairwoman

DATE: _____

EXHIBITS

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

Date: May 5, 2005

Time of Meeting: 3:45 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
S.B. 252	B	Sabra Smith-Newby, City of Las Vegas	Testimony and estimates for election costs
S.B. 386	C	Renee Parker, Secretary of State's Office	Proposed amendment to S.B. 386