

**MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-third Session
February 8, 2005**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara Cegavske at 3:27 p.m. on Tuesday, February 8, 2005, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Barbara Cegavske, Chair
Senator William J. Raggio, Vice Chair
Senator Warren B. Hardy II
Senator Bob Beers
Senator Dina Titus
Senator Bernice Mathews
Senator Valerie Wiener

GUEST LEGISLATORS PRESENT:

Senator Dean Rhoads, Northern Nevada Senatorial District

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Michael Stewart, Committee Policy Analyst
Elisabeth Williams, Committee Secretary

OTHERS PRESENT:

Dean Heller, Secretary of State
Renee Parker, Chief Deputy Secretary of State, Office of the Secretary of State
Steve George, Public Information Officer, Office of the Secretary of State
Larry Lomax, Registrar of Voters, Elections, Clark County
Barbara Reed, Clerk/Treasurer, Douglas County
Alan Glover, Clerk/Recorder, Carson City

CHAIR CEGAVSKE:

We would like to adopt the Senate Committee on Legislative Operations and Elections Standing Rules for the 2005 Session ([Exhibit C](#)). The one thing we did on the rules was to make sure everyone knew to turn their cellular phones off. This applies to the audience, too. We would appreciate it if those who are testifying would turn off their phones because it does interrupt what we are doing. Otherwise, this is pretty much the same as the rules in the other committees.

SENATOR HARDY MOVED TO ADOPT THE STANDING RULES FOR THE SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

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SENATOR MATHEWS:

I am looking at Standing Rule No. 14, [Exhibit C](#). Can you tell me what you need from it? Do you want someone to meet with you on the bill before they come to the Committee, or do you want them to explain it at the meeting?

MICHAEL STEWART (Committee Policy Analyst):

This is actually pretty standard. At times, when sponsors come to the Committee, they need the Committee to introduce bills for them. If the Committee wants an explanation prior to that, then the Chair and the Committee have the option to ask them to explain what the contents of the bills are prior to introduction. Approving the introduction does not indicate you are going to support a bill in the long run, but at least it gives the chance for an explanation if you would like it.

SENATOR WIENER:

I have a comment on Standing Rule No. 15, [Exhibit C](#). Sometimes during the proceedings when a bill is processing through a committee, there may be suggestions for an amendment which evolved based on the dialogue at the table or questions from the Committee. Is that an exception to this particular rule? If the amendment is a product of the Committee meeting itself, they might not

have it written at the time. Would it still be accepted at that time, in concept, if they provide the written amendment later?

CHAIR CEGAUSKE:

Yes. Now I would like to have Mr. Stewart give the Committee a presentation of the Committee Brief and an overview of Session deadlines.

MR. STEWART:

I would like to start off by directing your attention to the Committee Brief, Senate Committee on Legislative Operations and Elections, February 8, 2005 ([Exhibit D](#), original is on file at the Research Library). The Committee Brief highlights the jurisdiction of the Committee, it sets the schedule for the 2005 Legislative Session and it discusses various bill statistics. In addition, it highlights topics we can expect to hear this Session in Committee. It provides contact information for key government officials, county election officials and various organizations.

The jurisdiction of the Committee has changed from previous years. Typically, in the past this Committee's primary issues, elections and ethics, have been assigned to the Senate Committee on Government Affairs. For 2005, the Committee on Legislative Operations and Elections will track more closely with the Assembly Committee on Election Procedures, except this Senate Committee will also address measures concerning public employees. On the table on page 2, you will find the *Nevada Revised Statutes* (NRS) titles and the chapter numbers that fall under the jurisdiction of this Committee, [Exhibit D](#). This includes Title 17, regarding the State legislative department; a portion of Title 18, which addresses the administrative procedures acts and regulatory review; Title 23, public officers and employees; Title 24, elections and issues such as mechanical voting systems, city elections, campaign practices, initiative/referendum and recall; and Title 29, state printing and publications. As you recall, the Legislative Counsel Bureau (LCB) acquired some of the State printing duties. As a result, printing and publications were put into this Committee as well. The Senate Committee on Legislative Operations and Elections will also consider measures proposing interim studies and those bills amending permanent statutory committees. In addition to measures addressing the business of the Legislature and LCB, some measures proposing amendments to the Constitution will also be addressed in this Committee.

Looking at the actions of the Senate Committee on Legislative Affairs and Operations in 2003, which was what this Committee was called last Session, the jurisdiction of the Committee primarily included matters concerning legislative business and interim studies, but did not include elections, ethics or issues concerning public employees. Nonetheless, there are statistics which are worth noting and you can see them on the top of page 3, [Exhibit D](#). A total of 28 Senate bills and 11 Assembly bills and resolutions were received. Of those 39 measures, 22 were ultimately passed by both houses of the Legislature and signed into law. The Legislative Affairs and Operations Committee enacted bills last Session which included: eliminating obsolete or antiquated statutes, resolving non-substantive conflicts and legislative measures, creating various interim studies, amending actions concerning persons with disabilities, clarifying the role of lobbyists, amending the joint rules, amending the Senate Standing Rules, amending the *Constitution of the State of Nevada* concerning special sessions and amending chapter 218 of the NRS concerning the operation and functions of the Legislative Counsel Bureau.

As I mentioned before, in 2003, the topics of elections and mechanical voting systems, initiatives, referendums, and campaign finance were addressed by the Senate Committee on Government Affairs. Those elections issues, which were addressed by that committee, included easing accessibility to voting for elderly and disabled voters, clarifying recount procedures and requiring appointment of committees to prepare arguments for and against constitutional amendments and statewide ballot questions. Also included were measures addressing the vacancy in office for a representative in Congress, requiring the design and use of a single form for reporting campaign contributions and expenses and several provisions which put Nevada in line with the Help America Vote Act (HAVA).

On page 4 of the Committee Brief, I have included several pages regarding elections issues, [Exhibit D](#). There is discussion of voter eligibility, registration and turnout. There is also discussion regarding the statewide voter registration system. There are some voter turnout statistics. I would like to note the voter turnout for the 2004 general election was 77.4 percent. The highest voter turnout was in Douglas County at 92 percent and the lowest was in Washoe County at 68.2 percent. There is a little write-up about voting, absentee ballots, early voting and accommodations at the polls for elderly and disabled people. There is a section on page 7 concerning campaign practices and some discussion about contributions, expenses and the acceptance and reporting of contributions and expenses.

We will hear, this interim, several measures concerning initiatives and referendums. Starting on page 9, there is a discussion of that process and how constitutional amendments are made through the initiative and referendum process, as well as amending or enacting a statute. You may have heard about the geographical distribution requirement for petition signatures we had in our law until August of 2004. Nevada was one of ten states to impose a geographic distribution signature requirement, essentially requiring signatures to be gathered on statewide petitions in 75 percent of Nevada's counties. There was a recent challenge to this provision. The United States Court of Appeals for the Ninth Circuit threw the requirement out, so as a result, there are going to be several pieces of legislation addressing that. There is a discussion on page 10 regarding the referendum process, as well as a discussion about current initiative and referendum issues, [Exhibit D](#).

The Committee also has jurisdiction now over public employees, primarily in Title 23 of the NRS. I have highlighted some issues about that on pages 12 through 15, [Exhibit D](#). We also looked at the Public Employees' Benefits Program, which, as you know, is one of our hot topics here in the Legislature. We will be hearing at least one or two bills regarding that issue.

Finally, if you turn to page 18, there are some topics we have identified which we think will come to the Committee. One topic is HAVA, which was passed in response to the election issues in Florida after the 2000 election. As a result, the Legislature was very active last Session in bringing Nevada's election laws in line with HAVA. I would say there is a possibility we would see more of that as we try to fit our election processes into the federal requirement. We will probably hear some issues regarding voting machines. Every session we have measures concerning campaign finance. We will also hear bills on initiatives and referendums, ethics and impeachment issues, the Public Employees' Benefits Program and the whistle-blowing statutes.

CHAIR CEGAVSKE:

Now, we would like to go to the presentation from the Secretary of State.

DEAN HELLER (Secretary of State):

We will start by looking back at the 2003 legislative package. During the last Session, the biggest issue was HAVA, which came about because of the 2000 presidential election and the problems which occurred nationwide, specifically in Florida. We did enact HAVA, and we did put it into statute. We

allocated the necessary funds, the Nevada portion and the federal matching funds. We were to receive approximately \$20 million to \$21 million.

The HAVA requirements are mostly in place. We are working on the computerization of the statewide voter registration system. The system is about a month old and is to be in place by January 1, 2006, as required by federal legislation. We used provisional voting during the last election cycle, the Nevada Voters' Bill of Rights was posted, procedures for voting after the polling closes and the rest of the requirements were put into place. We have laid out this information in some detail in my PowerPoint presentation, "Voting in Nevada in the New Millennium" ([Exhibit E](#), original is on file at the Research Library).

The HAVA State Plan was developed with the State Plan Advisory Committee, which was mostly filled with State registrars and clerks and others who were involved in the process. The plan includes upgrades to the voting systems, development of the statewide voter registration system, provisional voting procedures and basically implementing HAVA. It was updated and submitted to the federal Elections Assistance Commission and it has been published on the Federal Register.

We had some other election reforms which occurred during the last Legislative Session. Obviously, the HAVA provisions and the Nevada Voters' Bill of Rights were posted at the voting sites when people came in to vote. Reforms dealing with the statewide voter registration system were discussed, but the form combining Campaign Contributions and Expenses Reports (C&E) and Dispositions of Unspent Contributions was pretty successful. We were able to take those forms and combine them.

SENATOR RAGGIO:

What was the situation in Nevada on the provisional voting? People who were challenged at the polling places because they were not on the list were allowed to vote. Then, upon some determination they have validly registered, the vote is counted, is that correct?

MR. HELLER:

There were 6,154 provisional votes. There were only 50 or 60 in the primary, so we were not sure what the provisional votes cast would be in the general election.

SENATOR RAGGIO:

Of the 6,154 that were cast, how many votes were ultimately determined to be valid?

MR. HELLER:

Forty percent of those votes were valid, so, 2,447 people who otherwise would not have had the opportunity to cast a vote, though legally able, were able to cast their votes. Keep in mind, when we vote provisionally, it is only for federal races. It is not for your state and local races.

On some of the election reforms, we were talking about combining the C&E Reports, the Dispositions of Unspent Contributions in excess of \$10,000 and our Ethics Commission's Financial Disclosure form. I put it all on one form. Most elected officials I talked to around the State were very pleased it was one form and not a multitude of forms they had to file.

SENATOR RAGGIO:

All of us have received complaints from people on some of these boards who have been required to file these reports. Are you prepared, at some point, to recommend some change to alleviate that kind of situation?

MR. HELLER:

Most of those complaints you received probably came through my office first before it came to your office because people probably were not satisfied with the answers they were getting from our office. Most of the complaints were attributed to the Ethics Commission's Financial Disclosure forms they did not want to file or did not feel compelled to file. They claimed they were appointed to sit on boards or commissions which did not pay a salary; they did not receive any compensation, no per diem, no expenses paid. They were doing it on their own merits. I know this went to the Attorney General's Office, and the question was specifically asked whether these individuals needed to file these ethics reports and these financial disclosure reports. The answer which came back from the Attorney General's Office was yes, they do.

SENATOR RAGGIO:

I understand that. It is fairly obvious there are some of those positions where it really is not necessary to have these kinds of filings. Is there somebody who is going to recommend something to us on this?

RENEE PARKER (Chief Deputy Secretary of State, Office of the Secretary of State): There was an attempt last Session which the Commission on Ethics brought forward. Some of the statutory language was a bit confusing. There was an attempt where if you were appointed and you did not receive a salary in excess of \$6,000, maybe you were not captured. At the same time, they put the enforcement in our office and the appointee forms were still filed with Ethics and the candidate forms were filed with us. This caused some confusion. Some of the language causes some confusion. It is my understanding the Ethics Commission does have a bill to try to clean up some of that and try to mitigate some of those circumstances for people like those you alluded to who are not paid.

MR. HELLER:

The final thing on the 2003 election reform is we did add ten additional days for voter registration. It was deemed to be pretty successful.

Back in December of 2003, you may recall, we came up with the Nevada Voting Proclamation. In essence, what we have done here in Nevada is decertify all the punch card machines which had been previously used. Of the 17 counties, we had about 7 counties which were still using the punch card as an option. Carson City was the largest county which still was using the punch card system, but that system was decertified. Through the use of HAVA funds, there was the selection of a uniform statewide touch screen voting system manufactured by Sequoia Voting Systems. The final requirement on the touch screen voting system was all of these systems had to produce a paper trail. All newly purchased touch screen voting machines would be attached to a printer so the voters could verify how they had cast their votes.

There were some older versions of the electronic voting systems in Clark County. They had a full-faced machine. When we were talking to Sequoia and in negotiations with them, we talked to them about retrofitting those machines so we could add a printer. They said they could not do it by this election cycle, but they would do a study and see if they could do it for the 2006 election cycle. We just got word back and their conclusion was they were unable to make the necessary changes to take those full-faced touch screen voting machines and convert them to include a paper trail. The costs would prohibit it, and they did not feel the technology was there to make those necessary changes. It has caused us some consternation and has brought us in

front of the Senate Committee on Finance to ask for additional funds to replace those machines in Clark County.

The following is how the HAVA funding has been spent up to this point. We have spent \$9.4 million to purchase 2,000 touch screen voting machines with the voter-verified paper audit trail (V-PAT) printer attached. That included replacing all the voting machines in all 16 counties, excluding Clark County. All the machines in Washoe, Carson, Douglas and the rural counties were replaced with the touch screen voting machines. The \$9.4 million included the maintenance and support agreement, through 2006, for servers and other necessary equipment, and the optical scanning machines necessary for the absentee voting. Obviously, they are not going to be using a touch screen voting system at home or abroad. We purchased the 37 optical scan machines necessary to tally the absentee voting.

MR. HELLER:

We also spent an additional \$5.5 million for the statewide voter registration system, which is being implemented as we speak. We are only about four or five weeks into the process, but it is required by federal law to be in place by January 1, 2006. We have a year to put that into place. We spent money on election night reporting, access to the provisional-voting telephone line and also on voter registration. The additional machines, for an additional \$15 million, would be necessary to cover Clark County's now obsolete machines which cannot be attached to a paper trail.

The rest of the HAVA funds, which is about \$4 million to \$5 million, will be used to buy additional voting machines in Washoe County and Douglas County, because they had a need for additional voting machines in those counties.

There are a lot of questions which go back and forth about why we need a paper trail. We can give you some pretty good examples in this slide, [Exhibit E](#). My favorite was the example in Maryland. This was not an election, but a state fair where a United States senator was asked to come in to try the brand new Diebold Election Systems' touch screen voting machines. After she voted, they pulled the cartridge out and tabulated the votes. However, the results were actually different than what the senator had put in the machines. Of course, she was not happy about it. There also happened to be some press there. The poll worker at the place let the press take the machines to try to find out why what it said on the machine was different than what they tabulated. The poll worker

was later fired, and a court order was sought to retrieve the machine from the press. It was a pretty ugly situation where, perhaps, what was recorded on the system was not necessarily what was tabulated at the end of the day.

We have situations in North Carolina; in fact, those 4,400 votes are still in question today, [Exhibit E](#). There were states where voters complained they selected John Kerry on the touch screens, but the screens kept showing George W. Bush.

SENATOR BEERS:

How do the issues you illustrated relate to a paper record? How does a calibration issue get addressed with a paper record? I would think the machine would need to be recalibrated. I am just not entirely sure a paper record fixes that.

MR. HELLER:

Let me give you an example here in Nevada. We had a situation in Tonopah where a cartridge was pulled from a machine, and tabulated, but they were not able to read the data off the cartridge. The paper trail would allow them to go back and look at the data, if they could not download the data. They were finally able to read back the information, but had they not been able to read back the information in Tonopah, they could have lost 350 votes if they had not had a paper trail attached to it.

In most cases, when you cast your votes you can see it on the paper trail and so you are able to verify your vote. In the State of Nevada, we audit our machines. We take a percentage of our machines and we audit them independently with the paper trail. If there is a machine which is not tabulating correctly, then we check a certain percentage within each county, which is up to 20 machines. We want to make sure what is being downloaded from the machines is accurate and we use a good, calculated percentage to determine that.

SENATOR HARDY:

Does the paper record just reflect what is on the screen? How does it deal with this issue of a voter selecting one candidate, and the machine saying it is something else? That will not be addressed or fixed with a paper record. It is not really designed to fix glitches in the program.

MR. HELLER:

The argument has been an electronic voting machine with no paper trail makes it impossible to do a recount. You are simply unable to.

SENATOR HARDY:

It is not designed to really address that issue.

MR. HELLER:

It can. We took over 6,400 machines and checked them against the paper record. If they were tabulating incorrectly, we were able to determine it by comparing the V-PAT with what the machines tabulated on election night. To give you an example, in the general election we took 145 machines statewide, which represented 64,424 ballots. We compared the results of the machines with V-PAT to make sure they were accurate.

We had one other incident in Pahrump, where one of the printers jammed. This was cause for concern for a particular voter. When he went to see his vote verified, the printer did not print his results, but otherwise it did exactly what it was supposed to do. He got upset, and went to the poll worker and told him the machine did not print anything. It happened to be the paper was threaded incorrectly in the printer. The poll workers just removed the printer and attached a new one to it. Then they were able to print out the results of his vote and continue forward, so as much as it did not work, it did exactly what it was supposed to do. The paper trail does add security to this process, as we have seen in several instances here in the State.

The V-PAT generated a tremendous amount of headlines for the State of Nevada being very aggressive and cutting edge for the way elections ought to be handled. My favorite headline was in the *New York Times*. It was an editorial on the State of Nevada where they said it could not be done, and you could not add a paper trail to an electronic voting machine and increase the confidence of voting through the system. We did prove it could be done. State legislatures across the country are now mandating paper trails to all the electronic voting machines. In California, they decertified all electronic voting machines. The only voting machines they are certifying are those voting machines which do have a paper trail.

CHAIR CEGAVSKE:

You brought up the fact each state is individually mandating the paper trail, but the federal government has not mandated a paper trail?

MR. HELLER:

No, but there are numerous pieces of legislation addressing it. Our own congressional delegation, Senator John Ensign and Senator Harry Reid, has bills in. Senator Christopher Dodd of Connecticut has a bill in. There are four or five other congressmen and senators who are requiring the paper trail be attached to the electronic voting machines.

CHAIR CEGAVSKE:

Is it coming? Do all of those elected officials understand the costs to their states? Did you tell them to help out?

MR. HELLER:

I have made as much noise as I possibly can. In the case here in Nevada, where we do need additional funds, the mandate of the paper trail on these machines would be a cost to the State of Nevada. I have been assured by our congressional delegation, if this legislation moves forward, they will do everything they possibly can to see Nevada is reimbursed for the funds they have put into the project. They realize and know Nevada has been on the cutting edge on this project from day one. I was back in Washington, D.C., last week and it was the number one topic of discussion.

A couple of organizations are talking specifically about voting machines and the need for the paperless voting machines. Sean Greene from <http://www.electionline.org>, which is a nonpartisan Web site, talks about electronic voting machines and the need for the attached paper system. It is probably easier to say what Mr. Greene said in 25 words, in the 3 words said by former President Ronald Reagan, which is basically, "trust, but verify," [Exhibit E](#). That is adequate and simplifies where we are going in this direction. Overall, I do trust the electronic voting machines, but we ought to verify.

Nevada led the nation in elections in three areas. It is interesting how much press Nevada did receive. We were the only state with a paper trail. Frankly, we were the only state which guaranteed the use of electronic voting machines which actually guaranteed their voters an accurate election. We can guarantee it through the audit process we talked about. We audit 3 percent of the machines

prior to going to the county commissions and boards of supervisors for reports. This is different from states like Georgia, which has electronic voting machines, but basically the voters have to prove to Georgia the state did something wrong. Here, in Nevada, we will prove to the voters we did something right. This is the purpose of the voter-verified paper trail, to prove to the voters the accuracy, not expecting the voters to prove to us we did something wrong.

The second area in which Nevada led the nation in elections was the general election. Nevada had the lowest percentage of under votes, or residual votes, in the nation. This means when people use these machines, they were checked and double-checked, and then they went to the verifiable paper. If the person did not cast a vote in a particular election race, the machine literally asked the person four or five times if he or she wanted to cast a vote for the races missed. The voters are given so many opportunities to go back, and the result is the under votes in the State of Nevada are the lowest in the nation. Now, we are talking about under votes here; no one can over vote with an electronic system. You cannot vote for two people in the same race if the machine does not allow it, but you can under vote. Of course, I also give credit to the fact we have "none of these candidates" on the ballot. Those who do not like any of the candidates and want to protest can. Being the only state with "none of these candidates" on the ballot really makes a difference in our under vote, also.

I was talking to a member of the press out in New York about a year prior to the election. He asked us what our undervote would be. I told him it would be the best in the country. Frankly, he did not believe me. He called me six weeks or so after the election and said he did not believe me when I told him Nevada would be the leader in the amount of residual votes in the nation, but sure enough, we were. For some reason, a lot of states and newspapers take a lot of credence in which states run the best elections based on what the residual vote is in that election. We do ask questions. I love that Clark County puts on a Web site the names of those who voted during the last general election. They also update it everyday during the early voting cycle, so anybody can go in there and take a look. If you cast a vote during early voting, you can go the next day to the Web site and take a look and see if your name is actually added to the list. Or you can go through the list of names on the site to see if you can identify a name, which should not be on that list. Clark County has been doing this for several election cycles. We keep requesting people find us links or names which should not be on this list. We would be more than happy to investigate and move forward on these reports. No complaints have been filed to this date.

You are asking about the paper audit trails. [Exhibit E](#) gives you a better idea of the direction we went in on this. If you have a population of less than 100,000, we require a minimum of 3 machines or 3 percent of the total machines be audited before they are canvassed before the county commissioners or the registrars. If your population is greater than 100,000, a minimum of 20 machines or 2 percent of the total machines have to be audited. Washoe County audited the most machines during this last election cycle because every one of their machines was a touch screen with the paper trail attached. The number of audited machines in Clark County, of course, was substantially less because about two-thirds of their machines or more did not have a paper trail. They just went with the minimum of 20 machines. [Exhibit E](#) tells you the election audit results. In the primary election, we audited 116 machines. In the general election, we audited 145 machines. How many ballots were on there? It was over one million votes. We audited over a million votes in those 64,000 ballots. You can see the accuracy in both cases was 100 percent. There are those who profess this just proves these machines are 100-percent accurate, so you do not need a paper trail. My argument for a paper trail is these machines are recalibrated for every election cycle so every election cycle needs to be audited and guaranteed. This way, we can go back to the voters and say these machines are 100-percent accurate.

For the first time here in the State of Nevada we had over a million people registered to vote. This is a quarter of a million more than the last general election. To have over a million registered voters speaks volumes. The total voter turnout of that million was 831,563, or 77 percent. Senator Raggio asked earlier about provisional votes. [Exhibit E](#) shows the numbers of how many votes were cast and how many were counted. Then we had the total of the early and absentee voters, which was 434,611. Fifty-two percent of the votes were cast before the election.

CHAIR CEGAVSKE:

It was alleged that illegal voter registration forms counted. I wanted it on the record so we could address it a bit. We do not really have any teeth in the law to help us with what we should do when we look at something and there is something wrong we believe should be checked out, or if we believe this person should not have been able to vote because of an illegal registration form. What procedures or recommendations do you have for this Committee to correct that?

I also wanted to ask you about the replacement of the machines. Is there an age on them? What is the longevity of the machines? I know the amount of money we put into Clark County for the machines we have. Now, we are being asked to get rid of all of those. I am just concerned about how long down the road it will be. How long have we had the Sequoias? We have had them since 1996, so in another ten years are we going to be asking the voters to get a whole new set of machines? I know technology changes, so we will be looking at those issues.

Then you had said one other thing about the paper trail. In one of the places, it malfunctioned or the paper was put in wrong. Did they have another one or did they just rethread the paper? Do you have extras which are standbys? Do you buy extras? We heard in the Senate Committee on Finance this morning, the extras are \$500 for the paper-trail box which is attached. This is why it really brought up the cost on the machines.

MR. HELLER:

The paper trail, the ballot box, I call it; every polling place had additional ballot boxes, so if there was at least one concern or problem, such as something jammed or the printer ran out of ink, we would be able to just unplug one and plug the other one in. We did buy additional printers so we always had a backup. The printers could be removed and others put into their places. We just made sure every polling place had at least one extra printer available.

To talk about the replacement longevity, there are voting machines which are still being used in the United States from the 1940s—the lever machines everyone has been trying to get rid of. These are still being used today in the state of New York. They are as obsolete as the punch card systems. I would anticipate those machines will be replaced soon. It is hard to say there is a specific date of longevity for any of these machines. You may want to ask Mr. Lomax because he actually had a replacement program going as they were buying additional machines. They were buying the new machines as opposed to the old full-faced systems.

SENATOR BEERS:

On our copy of this slide, at the bottom, next to percentage, 70 percent, there is "V.A.P" 44 percent, [Exhibit E](#). I am not familiar with that acronym.

MR. HELLER:

It stands for voting-age population. We showed a 70-percent turnout in 2000. Keep in mind, only about 50 percent of the people who are eligible to register actually register, and only half of those who are registered actually cast votes. In this case, 70 percent actually cast votes. The voting-age population, the real number if you want to see how many people actually turned out in the election, the VAP you would have is 44 percent.

SENATOR BEERS:

Is the voting-age population adjusted for felons and foreign nationals? I am seeing some shaking heads back there.

MR. HELLER:

Let us put it this way, as we move forward with the statewide voter registration system, it is to be adjusted. Mr. George tells me these numbers have been adjusted for that. It would be much easier to do it with vital statistics. That is a part of the new statewide voter registration system. In the future, I would argue you would have more accurate results of VAP and total voter turnout.

Senator, you were asking about fraudulent registration forms. Obviously, we had an issue during the last cycle about Republicans filling out registration forms and maybe throwing out Democratic forms and vice versa. I do not think there is really an issue as far as teeth in the law. It would be helpful if we could get our law enforcement community to actually aggressively pursue those. The district attorney's office had the opportunity to look at it and the Federal Bureau of Investigations (FBI) had an opportunity to take a look at it. Mr. Lomax showed them, specifically, some of the issues. I would rather have him speak on it. The issues which were going on, as far as fraud and registration, were pretty clear-cut. We can raise all the penalties we want, but if we do not have a law enforcement agency willing to pursue people after they have been given all the evidence of what has occurred, nothing will be resolved. It is difficult, regardless of what the penalties may be, as to whether or not we can pursue them.

CHAIR CEGAVSKE:

It is aggravating when our constituents hear about these things and nothing has been done. It is pretty frustrating to try to explain why.

MR. HELLER:

It is tough to try to explain to your constituents why voter fraud occurs and why we do not do anything about it. It is frustrating not only for my office, but for the Clark County registrar's office and other clerks and registrars' offices across the State when we see they are not aggressively pursued when the evidence is overwhelming that fraud has occurred.

CHAIR CEGAUSKE:

We will be bringing this up and discussing it more during this Session, but I do appreciate you responding.

MR. HELLER:

We did okay with voter turnout as far as moving in the right direction. As you can see in [Exhibit E](#), Nevada was sixth in the nation in increase in voter turnout for 2004. That does not rank us really high. Nevada has a very mobile population which makes it difficult to increase those numbers. Unfortunately, it is just not a stable population with the number of people who move in and move out. There are people who live in this State who believe they are going to move back to Michigan, or Florida or California as soon as they make a few bucks. These people do not register. They do not participate in the registration process or the voting process, but for us to make the kind of gains we saw during 2004, it was definitely a move in the right direction.

SENATOR BEERS:

Was the percentage increase compared to 2000?

MR. HELLER:

Yes it was.

SENATOR BEERS:

Has our population growth exceeded 8.95 percent of those 4 years? Is this adjusted for population?

STEVE GEORGE (Public Information Officer, Office of the Secretary of State):

I am not sure; I took it from a national report. I would have to go back and look.

CHAIR CEGAUSKE:

Please get back to Senator Beers with the answer.

MR. HELLER:

It looks like it is a percentage of voter increase versus the previous period. In other words, if we had an 8.95-percent increase in voter turnout, it was probably versus the last general election or the last presidential election. I am guessing it is the last presidential election. We will get those specific numbers for you.

I thought the last ten days of the registration period was very successful. It was my argument as we were doing this, we would get additional participation if we extended the registration period ten days. You can see in the last ten-day registration period, based on the changes we made in the last Legislative Session, we had an additional 3 percent of the population register to vote during the time period, [Exhibit E](#). What is striking is half of the total 6,800 in Clark County registered on the final day. It was somewhere in the area of 500 new registrations an hour.

Nevada's voting statistics are improving every presidential election year, [Exhibit E](#). We did have elections in 2004. We did have issues in 2004 relating to this last election. The longest lines were in Washoe County. Some of the waits were as long as two to three hours. This was discussed at length this morning. We had some issues with Election Day polling locations. Some of the issues with the long lines dealt with the fact that in Washoe County a real effort needs to be made on early voting. There is a line item in Clark County's budget for early voting. They go all out to make sure the public knows you can vote up to two days prior to the general election. This being the case, they get a good 50 percent of those participating before Election Day. When you compare that to 10 percent in Washoe County, you can anticipate you are going to have a much higher turnout on Election Day if you do not have an overwhelming number of voters turning out for early voting. Carson City was high, not as high as Clark County, but it was about 40 percent. Douglas County turned out really well. Unfortunately, Washoe County saw the turnout for early voting quite low. That is what really hampered the process on Election Day in Washoe County.

Our 2005 legislative package is going to be concentrated on the initiative and petition process. It is clear this is the future. We had more initiative petitions filed and qualify on the ballot this time which came from the people through the initiative process and the signature-gathering process. It is overwhelming for the clerks and the registrars as they go through the signature-verification process. It can be overwhelming as we discuss the language on the ballot questions with

the committees. I am not complaining about it, but it has really changed the world of elections when you have basically yes, no, up and down answers for difficult and complicated issues. We saw this during this last election and some of them are very sensitive issues. A lot of emotions are involved in these ballot questions. If you spend your time and effort to gather the 10 percent of the signatures in the 13 of 17 counties, but you do not qualify by a handful of votes in a single rural county, you do get upset and do tend to get emotional. We have to deal with those issues.

It has caused a tremendous amount of litigation. A lot of gamesmanship goes on last minute, trying to kick off these ballot questions by simply putting it into the courts and trying to block the process. By going through the initiative petition process with this Committee and your sister committee in the Assembly, we can address some of these issues, dealing with the legal issues and the "last preceding General Election" question which occurred just recently through the courts. There are a lot of remedies we are going to have to work on with this Committee to make this process smoother because the initiative and referendum process is here to stay. As long as we have people with a lot of money, ideas and agendas we are going to have a lot of petitions circulating. It is going to be a lot of work for my office as well as for the clerks and registrars.

We are going to have a cleanup bill on Title 24 of NRS, the elections chapters. Then we are going to discuss the movement of the primary to what this Committee can agree to. We have May. May was discussed with the clerks and the registrars. We have 60 days now in September and November. With all of the litigation which has occurred and will occur in the future, it is getting to the point where it is difficult to prepare the ballot questions and be prepared for the general election between the primary and the general. This is a discussion we are going to have with this Committee also.

It was interesting calculating some of these numbers and how much money was spent per electoral college vote here in the State of Nevada. We were second, being a battleground state, only to Ohio in the dollars spent per electoral vote. Nevada got a tremendous amount of attention during this last election cycle not only for some of our technologies, but because the presidential candidates spent the amount of time they did in this State. The only state we were second to was Ohio.

SENATOR MATHEWS:

I have a question about one of the districts I represented in the last election. I do not know if you heard about it, this was not the mall at Park Lane. This polling location is in northeast Reno. I notified the voter registrar on the last day you had to turn in absentee ballots there was someone going through a neighborhood to all the elderly people who were registered Democrats and asking them to turn in an absentee ballots. The only reason I got involved is because they called me. I said, well, you just go to the apartment complex and you tell the people no one can carry your absentee ballot in, you have to mail it in. They helped the elderly people fill out the absentee ballots and there was about six of them completed before they started to call me. I do not know if you heard of this or not.

MR. HELLER:
I did not.

SENATOR MATHEWS:

I called the voter registrar to alert him this was happening. All kinds of tricky things were going on. I do not know if those few people would have made a difference. I do not know how many got through. I do not know if this is important.

CHAIR CEGAVSKE:

It is important because it is a part of the voter fraud which is going to be addressed by this Committee. It is something everyone has been concerned about. We had heard of other problems in Clark County which Mr. Lomax will address.

MS. PARKER:

There were a couple of other cases like this where we had people calling registered voters on Election Day and telling them their polling place had changed. They then proceeded to direct them to the wrong polling place, or told people after hours the deadline was extended to 8 p.m. or 9 p.m. Mr. Lomax has a lot of examples of those types of games, which did go on this election cycle. We have tried to address many of them working with Nevada Division of Investigations (NDI), the FBI, and the clerks. Hopefully, this Committee will address a lot of those issues during this Session.

CHAIR CEGAVSKE:

We can bring the people before us to ask why something was not done or if they could give us any examples of anybody who was prosecuted.

MR. HELLER:

Some of it was not necessarily fraud. At Western Nevada Community College, I spoke to a class where they had 250 students who were registered to vote, yet the registration forms were delivered late. They were all informed they were not registered to vote. I had a nephew going to the University of Nevada, Reno, who had registered to vote through an off-campus organization. He went down to vote on Election Day and was told he was not registered to vote. His form never got turned in. He did vote provisionally, but doubts the vote was ever cast. Those things do happen during every election cycle. After what happened in Florida, the spotlight was on. Before this last presidential election, during the preelection, I do not think we have ever had more oversight in an election cycle. To say this does not mean we do not have a long way to go, because there was a lot of sunshine on this process and a lot of people asking the necessary questions. A lot of it could have been worse, but it was not good.

SENATOR BEERS:

How much was the statewide voter registration system?

MS. PARKER:

The contract we awarded was \$4.6 million. It includes maintenance through 2008, and it includes all the hardware and the software for a mirrored system in Clark County. During the last month, they have been doing design sessions. We have discovered, even though we did requirements and tried to gather all the information from the clerks, there are some additional requirements and changes we are going to need to make. We also paid for the travel for some clerks to come to the design sessions. This has all been conducted with HAVA funds and is included in the \$5.5 million as an estimate with some of the changes we expect.

SENATOR BEERS:

Was that considered a less expensive alternative than just using Clark County's system?

MS. PARKER:

Yes. This was less expensive than the current Clark County system and their vendor bid as well. The bid, without the fully mirrored system was over \$1 million more because they would have to make adjustments in their system in order to make a statewide system as well. The vendor we chose already had a statewide system. They were in place in six states. They needed to reconfigure their system for some of the Nevada requirements, but they have put statewide systems in place. We are guessing this is the reason for the difference in the bids. The current Clark County vendor's bid was much more substantial and did not have the concept of the statewide system in place. They had a county system they were going to try to bring statewide, but there were no specifics for how it was going to be done.

MR. HELLER:

There were long-term maintenance issues also. The long-term costs with the Clark County system were far greater than the all-in-one system we went with.

SENATOR BEERS:

What is going to be the availability of voter data to candidates when we are done with this?

MR. HELLER:

Clearly, that is one of the advantages to having a statewide voter registration system.

SENATOR BEERS:

It depends on whether you are running statewide.

MR. HELLER:

If you are running multicounty, you could be a State Senator in multicounties or an Assemblyman in multicounties. It would be a lot easier to gather the information when you have a single source as opposed to going to multiple counties in order to find databases which hopefully match.

SENATOR BEERS:

We were getting weekly updates from Clark County at no charge from their systems.

MR. HELLER:

This system would be real time. If you wanted a copy of the new registration every 24 hours, then it would be available. It is available as often as you would want it.

SENATOR BEERS:

Are you anticipating making it available at no charge?

MR. HELLER:

At this point, we have not even discussed it. It has not even been an issue. We have far greater concerns trying to get the system up. That would be something we could address down the road.

SENATOR BEERS:

What kind of plans exist for the changeover from the disparate 17 systems to a single system? Is it going to happen on this date?

MS. PARKER:

The contract includes multiple-user-acceptance testing dates and conversion. Some county's data is converted at one point, and then another county's data is converted. It is a long-term process over several months with the conversion. I do not think they are all going to be cut off at one point. There is conversion along the way and then user-acceptance testing. You can still access your old data until we are certain it has all been properly converted. The clerks are helping in the design of those plans, the user-acceptance testing and the design of the system.

SENATOR BEERS:

What are some of the specific changes which are required to facilitate Nevada versus the other states where they have been implemented? Did you just come up with this in the design sessions?

MS. PARKER:

Alan Glover, Barbara Reed and Larry Lomax may be able to give you more specific information because they have been attending all these design sessions. Most of it deals with the fact that not all states have an initiative petition process or their processes are done differently. Perhaps the signature verification is done in a different manner so they have to reconfigure their systems to accommodate the process the clerks go through. It is not just a

voter registration system. It includes the election management portion of the system so there are issues with processing petitions. They could probably give you many more specifics than I could at this point.

CHAIR CEGAVSKE:

Now, I would like to have the presentations regarding the elections issues from the county election officials. Could we have Alan Glover, Barbara Reed and Larry Lomax come forward?

LARRY LOMAX (Registrar of Voters, Elections, Clark County):

I am the current president of the Nevada Association of County Clerks and Barbara Reed and Alan Glover were the last two presidents of the same organization. We are here to address some elections issues. We will give you our perspective on how the 2004 elections went and what challenges we see coming in the future. We can also clear up some of the issues and questions which were asked. For instance, voting age population is just that, everyone aged 18 and over. There is another category called voting eligible population, which takes out felons and noncitizens as well. My guess is voting age population is just that, 18 and over.

SENATOR BEERS:

What is the drop-off rate between the two?

MR. LOMAX:

It is different in every jurisdiction. I cannot give you the exact data in Clark County, but we have a pretty high difference between voting age and voting eligible.

Overall, the 2004 elections presented us with more challenges than we have ever seen before. I would say they caught all of the clerks by surprise. The 2000 elections went smoothly; at least looking back at 2004 I suppose you could say the same thing. The major difference is we are no longer conducting elections within Nevada. The influence now comes from outside the state. I was constantly dealing with lawyers from Washington and California. The poll watchers flooded into the State, at least Clark County, to observe our election and virtually all of them were from out of state. The money which came and funded these registration drives was coming from national organizations, again, out of state. There is a fine line between chaos and control. I think we barely hung onto our elections. There are a lot of areas we need to look at or we are

going to lose control in the future. I predict, and I would think most of you would agree, the 2008 elections are going to be every bit as contentious as what we just saw. What we would like to do is review some of the areas you have already discussed and where we definitely have problems. I will address them from the Clark County perspective and these two registrars will come from their counties' perspectives.

Nevada is a battleground state and this means we get a lot of attention. It is also situated next to California, which was not a battleground state and will not be in the future. This means we got a lot of attention from California and this will continue to happen.

In regard to registration, we were inundated with forms. We averaged for a 15-week period, starting just before the primary until just before the last time you could register for the general election, just over 12,000 forms a week. Compared to the 2000 presidential election, which was the election previous, we were averaging just over 4,000 forms a week. This is a three-fold increase in voter registration forms and it is more forms than we had in the previous years combined. There was a reason for it. It was out-of-state money and out-of-state organizations. We know because they came in and told us when they arrived. They were paying and hiring people to go out and register people to vote. This was from both major parties, various labor organizations and lots of individuals who were doing this. All this money then created incentive. When you are getting paid by the form or paid by a quota, there is a big incentive to go out there and get as many forms as you can.

CHAIR CEGAVSKE:
That is illegal, correct?

MR. LOMAX:
It is illegal to pay in that manner. The law only allows you to pay by the hour or by the week. The bottom line is we were flooded with fraudulent forms. We were also receiving so many forms overall, we did not have the ability or time to sift through all these forms. What we caught, we caught by coincidence—when we suddenly ran into a stack with identical handwriting. We did turn over box loads of what we thought were clearly fraudulent forms to NDI and the FBI. We met with them, they turned us down. We met with our district attorney's office, they turned us down. It ended up with the NDI. They basically determined there was fraud, but it was not an overarching plan to steal the election. It was just a

lot of people ripping off their bosses registering voters. This may make it all right to the NDI, but it does not solve our problem.

It got so bad at the end. We kept trying to go public with this and eventually these people stopped submitting so many fraudulent registration forms. They just started registering the same people over and over again. It was not uncommon to find the same person registered 20 times in a week. This just inundates us with work and creates lots of wasted man-hours. We increase from a department of about 40 people to a department of about 100 in a normal election. It got so bad, in addition to those people, I had to hire an additional 30 people who did nothing but enter voter registration forms all day long just to keep up with what we were receiving. A significant portion, about one out of seven or one out of eight forms, was a duplicate. It is a lot of wasted taxpayer money. I do not know what the solution is, but we need to get some more teeth into this.

There were two things which drove it: one is the incentives from paying people to register voters; the second problem is there is virtually nothing in the statutes which governs this area. We hand out forms to just about everybody who asks for them. Once we have given the forms to them, they can do with them pretty much what they please. Theoretically, they are not accountable to us to identify who they gave them to or what they did with them.

CHAIR CEGAUSKE:

Do you have some suggestions you might share with us?

MR. LOMAX:

We definitely do, yes. I will give a few examples from Clark County. At the Department of Motor Vehicles (DMV), which is one of the primary places where people register to vote, they are required every time you go into the DMV to ask if you are registered to vote. Well, these people have quickly figured this out, so they went out to the sidewalks of the DMV and intercepted people before they got inside. They represented themselves as working for the DMV or they represented themselves as working for the Clark County Elections department. They would register anybody who could register, then the people getting paid to register Democrats would trade with the people getting paid to register Republicans at the end of the day so they could each turn their forms in and make whatever money they could make. In the morning a line forms before the DMV opens at about 8 a.m. There were people walking up and down the lines

telling other people in line their computers had crashed and they needed to reregister everyone. We had complaints from people who were telling noncitizens if they registered to vote, it would help them get their citizenship, which is kind of backwards from the way things are supposed to be.

We had several complaints from individuals about people who were charging people \$1 per form to register them. We had quite a few complaints, generally from ladies who considered themselves as having been harassed in parking lots, by very aggressive people who were out there trying to register voters. As a result, they would call us and say, "You are going to get a form. I filled it out, but the information in there is fake. I could not turn him down because he was pressuring me so much, but I did not want to give him any of my personal data." All of this was the environment we were dealing with down in Clark County.

BARBARA REED (Clerk/Treasurer, Douglas County):

Douglas County, fortunately, does not have to deal with the problems that Mr. Lomax has to deal with. We are much smaller. We did have some of the issues, but on a smaller level. We ended up identifying minimal fraudulent voters. Of those we did sift through, we ended up having one voter who voted twice. We felt very successful in that effort. We also doubled our staff. I have never seen voter registration forms come in as we did this last election. They were coming in from every entity around. We had people coming in asking for forms we had never heard of before. We also had individuals coming out of California we never had to deal with before. It was an extremely interesting process and very challenging, but we did not have the volume Clark County had. We were very successful, but we do need to put some teeth in this. We have some ideas on how we can at least curtail and discourage it. We can certainly get into those details at a later time unless you want to talk about them at this point.

CHAIR CEGAVSKE:

We will let Alan Glover go ahead and talk to us. Do you want to talk about your bill, which the counties are all together on? Do you want to just give us some highlights because we will have a hearing and we will go through it all, if you do not mind? Maybe the Committee would like to hear a few of your ideas?

ALAN GLOVER (Clerk/Recorder, Carson City):

For example, we had 4,000 application forms printed for Carson City. We gave out most of those, and we only got about 1,000 back. We do not know where those are going. They are all floating around out there somewhere. In some ways it is unfair to some of the smaller counties because the taxpayers are paying to have these forms printed and then they are being used somewhere else. We, of course, encourage people to go to Washoe County and pick up their forms over there. We are more than happy to accept them in Carson City.

There were some issues on the longer period to register to vote. It was quite a problem for us, as the Secretary of State pointed out. A lot of people registered during the period. There were only three days between the close of the period and early voting. We did not have time to get their voter registration cards out to them. The cards ended up going out late and we did not get them back in until after the election was over. We found quite a few questionable forms in there, and I do not know if I would go as far as to say they were fraudulent voter registrations, but ones which were not deliverable. Several of them were sent to addresses they definitely did not live at. We got some nasty notes back from the people who did live there saying it was voter fraud. It does cause a problem, which ties back in again to the dates of the election. All the clerks in the State feel strongly about attempting to get the date of the primary moved and support the Secretary of State in that effort. We would support the date he picked.

Overall, this last election went well. We were one of the counties which went from punch cards to touch screens. It was well accepted in Carson City and worked very well. The biggest problem we had, without a doubt, was the petition process. It just caused problems in getting overseas ballots out to people. What we had to do in Carson City, because we were not going to make the statutory deadline, is make copies of their ballots. We mailed them to all of those people overseas and then had to duplicate those ballots when they came back in. No clerk likes to touch those ballots if you can avoid it. It was costly and a potential for major problems.

The litigation is absolutely killing us; it is one of the worst things that happened. It might be in the Secretary of State's bill or in one of our bills to try to work on some of the language and move some of the dates around and massage it a bit. We should get the legal question settled early on. It is fair to both the election officials and to people who are circulating a petition to know the argument or

the ballot question is going to withstand constitutional muster. You put in all this money, and come to find out, it gets challenged in court at the last minute. Everybody is a loser there. I know Mr. Lomax has some thoughts on petitions.

MR. LOMAX:

One thing I would like to point out about petitions is it is not the petition, but the litigation that follows and the delays which held us up in printing our ballots. Especially for any of you who are new to the Committee or new to the election world, a lot of people mistakenly think of printing a ballot. But in a presidential election for instance, in Clark County we had 288 different versions of the ballot because depending on where you live in the county you have a different set of representatives. Remember, we have to print a sample ballot, a mail ballot, an automatic voting computer ballot, an absentee ballot, an audio ballot and we have to program a touch screen ballot. Then we have to do all of this in English and in Spanish. It takes us a month to prepare, proof and print all of the stuff. When you are talking about a primary election which is only 8 weeks before the general election, and early voting starts 17 days before that, there is no flextime at all. What happened to us in this last election were the delays, which resulted from petition litigations, killed us in the preparation for these elections. Anything we can do to somehow put some sort of limits on this would be good.

SENATOR TITUS:

We had the latest primary I have ever seen. Most states have primaries in April, May and June, at the latest. You beat each other up in the primary until September and then you have six weeks to run against the general. It makes the elections more expensive. How do you all feel about moving the primary day? Is it something you can do legislatively and not constitutionally?

MR. LOMAX:

I know we all agree on this. They are asking to move it up to May. We would fully support it.

CHAIR CEGAVSKE:

Yes, in fact, I had the pleasure of touring Mr. Lomax's facility in Clark County. If anybody on the Committee has not, I would really encourage you to do it. It was a great experience, but it was one of the things they talked about. They were trying to figure out a way to save costs in Clark County and it was one of the things Mr. Lomax had brought up right away. Secretary of State Heller is

also supportive of it. The issue was trying to find the date in May we could use and there were the concerns of whether the schools were open or closed. There are a lot of issues we have to look into, but everybody is on the same page. I was told, historically it had been earlier. From a historical point, I would like to find out what date it was, exactly, because it might help us. We will have staff find it out.

SENATOR TITUS:

In that case, we would have to move the filing day, but it would not be hard to do.

CHAIR CEGAVSKE:

The presentation I saw in Las Vegas is definitely worth seeing. I was amazed. If any voters really understood what has to transpire for an election to take place they would be amazed. It is a very costly procedure, but they are looking at how we can cut some of the expense and the time for everybody. This would help with the overtime. There are a lot of issues.

SENATOR MATHEWS:

We had an incident in Washoe County. I do not want to be critical of Washoe County because it is where I reside and I think the person who is in the voter registrar's office is a great person. This is not my complaint. Something happened in our county and I was asking the people up here if this happened to them. I did not get my sample ballot for early voting. When I stood in line to early vote, there were other people in line with their ballots who said they received their sample ballots a week before. The next week it came out in the papers that the voter registrars sent out the Republicans' ballots because there were more of them, whereas the Democrats did not get any. I was wondering if this happened in Clark County.

MR. LOMAX:

We did not do that. I will point out though, getting the sample ballot is a challenge because there are so many styles and such a limited time between the primary and general elections. If you go back to the primary election and what was occurring at the time, the Secretary of State's Office, which has to write the explanation for the questions, was taken to court over Question 3 and the explanation which was in there. We had already printed our mail ballots at the time. The court ruled in favor of whoever was suing them so we had to throw away \$500,000 worth of mail ballots, and it delayed our sample ballot printing.

We had already printed the sample ballots, those of you in Clark County remember we had a blue insert in there. We then had to go back and throw away the pages and replace them. We had to solve the problem, but it delayed getting the sample ballots out. I would imagine Registrar Daniel Burk in Washoe County had the same problem, also, and it impacted his ability to get them out on time. In Clark County, we mailed out by precinct, so the people in Boulder City did not get the sample ballot before early voting started for us.

MS. REED:

I came from a punch card county like Mr. Glover and there were seven counties which did. Clark County went from punch cards for their absentee ballots. The clerks did an incredible job this election, and we did have the ten-day additional time to the close of registration. What I did in Douglas County was mail the bulk of our registered voters after the first close of registration, which was 30 days before, because I did not want to have anyone delayed. Then we had the last group of new registrants from the last ten days that we did a second mailing on because, as Mr. Glover addressed, we only had three days to turn it around before early voting.

We knew we were going to have a tremendous turnout, and in Douglas County for the general election we had a little over a 92-percent turnout. Fifty percent of those people voted early. The lines were incredible; people were in lines for an hour and a half to two hours. We were handling them as quickly as we could. We had such interest with the new touch-screen machines. We did encourage everybody to bring their sample ballots because it would assist them. The sample ballots reflected exactly the way those screens would look. We did not receive those machines until after the first of July. We received the printers later than that. We had early voting starting around August 16. The very first day we had over 500 people come in. I know Washoe County was the same way. We were all just absolutely amazed. I wanted to take a moment and commend the clerks because we did do a tremendous job of training ourselves, the staff and the employees. It was quite a feat.

CHAIR CEGAVSKE:

I also want to commend the State and the counties for what they did. I had the pleasure of going to the Nevada Association of Counties and was invited to sit in on their meeting. I felt bad for some of the clerks who shared with us stories of some of the things which had happened, such as intimidation. Several of you had people who were volunteers in tears because of the pressure. People were

reciting NRS to them and telling them they had to do this or that and it had nothing to do with anything. I think it was Senator Townsend who indicated they registered 900 attorneys at one of the hotels in Reno for the election. There were 900 they knew had come in from California alone. I have no idea what was in Las Vegas, if we know any of those numbers. There are a lot of things we can correct.

The recommendations which came from you and everybody in the meeting that day will be good. I was very impressed by the collaboration among all of you. They work very well together. It was amazing to sit in there and listen to it. I do commend all of you.

MR. LOMAX:

There are a couple of other issues I would like to discuss. The poll-watcher issue is definitely an important one. It was in Clark County where we had an average of 5 or 6 poll watchers, 14 was the worst-case. We have over 300 polling places. I visited a lot during early voting and found out all of the poll watchers were from out of state. A simple solution in our eyes is to limit them to people who are registered voters within the State of Nevada or even within your county.

CHAIR CEGAUSKE:

I like that. I really thought that was a great suggestion.

MR. LOMAX:

The poll-watcher issue is what the out-of-state people were doing to our voters. There was the issue of provisional voting, which Senator Raggio addressed earlier. What was not mentioned is, although we did not intend it when we wrote the initial laws governing provisional voting, it was interpreted to mean if you were a registered voter, then you did not have to vote in your polling place. You could go to any polling place you wanted and vote provisionally. Now if you voted provisionally, you were only allowed to vote for federal offices, so you are not getting to vote a full ballot.

What was happening, at least in Clark County, was people were showing up at the wrong polling places. Our workers were correctly instructing them they were not at their polling place and they needed to go elsewhere. As the voters would leave to go to the correct voting places, they would be intercepted by these poll watchers who did not care at all if these people voted on Nevada

issues. They were there for one reason only, and it was to get people to vote for the presidential candidate of their choice. They coerced them and stuffed them right back into the polling place. These voters were easily intimidated, I can assure you. They would go in and end up voting a provisional ballot in the polling place. We ended up counting those because they were registered voters, but they, in my opinion, were being disenfranchised by these out-of-state people because they were not getting to vote on any of the Nevada issues. When I said there is a fine line between chaos and control, we were right on the edge in those situations. They had a system where a person inside the polling place would say somebody is coming out the door who has been told to go to another polling place, and there were people waiting outside the door who would then intercept them. It was all a big plan. Then the voter would come back. There are things which can be done to correct this.

Another issue which arose and resulted in a lot of legal arbitration in Clark County was this issue of the 100-foot campaigning rule. This rule, I am sure every candidate is familiar with, prohibits electioneering within 100 feet of the entrance to the polling place. Well, there were clearly partisan organizations which happen to be exempt IRS-wise and recognized as nonpartisan, such as the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), that were within the 100 feet. The president of the AFL-CIO was advocating one of the candidates and stated publicly his goal was to ensure this person was elected. They are exempt IRS-wise as nonpartisan, so they were claiming they could stay within the 100-foot, rule wearing shirts with their logos, and help voters as they went into the voting place.

This is going to cause us enormous problems. We were finally able to work out a situation or agreement so they did not do this during the general election, but I must have met about ten times with some lawyers from Washington, D.C. who were flying out. These were not even Nevadans I was dealing with; these were out-of-state people pushing this issue. This could be easily resolved. Right now the hang-up is electioneering, no electioneering within 100 feet. It should be, in my words, no one can hang out within 100 feet. You can transit in and you can exit, but you cannot be in there. We cannot police what they are saying. They may be in there with the best of intentions just to advise voters, but you cannot linger around.

I do not want to lose control of what is going on in 2008. The poll watchers, the 100-foot barrier, these people coming in and registering voters, we need to address all these issues and make sure Nevada controls Nevada's elections.

CHAIR CEGAVSKE:

We are all concerned about these issues, we want to clear them up and we appreciate you bringing them to us. I did want to see if you could briefly talk about the interesting story I heard from the Clark County Manager Thom Reilly.

MR. LOMAX:

One of the things I am very fortunate in is the team leaders, the people in charge of the polling places are Clark County employees. This gives us continuity, this gives us experience. I do not have to go out and recruit senior citizens to oversee things. Thom Reilly helped us out greatly by taking senior management and getting them involved too so they got a firsthand experience at what goes on in the election. Mr. Reilly was a polling place team leader. Two of the three assistant county managers were at the polling place and the third was not, just so at least one would be overseeing the government center. All the senior managers' department heads were out there running polling places. It helps a lot just having someone with the experience out there. It also exposes the fact there is a lot more to elections than anyone realizes.

CHAIR CEGAVSKE:

Some of the staff I talked to said they were amazed, but it was a great experience. All of them said they had learned so much. They agreed they need to tighten up some of the procedures.

Now I would like to open up the hearing on Senate Bill (S.B.) 19 and Senator Rhoads is here to speak on it.

SENATE BILL 19: Changes name of Northern Nevada Senatorial District to Rural Nevada Senatorial District. (BDR 17-731)

CHAIR CEGAVSKE:

Senator, please give us an overview on this. This changes the name of the Northern Nevada Senatorial District to Rural Nevada Senatorial District.

SENATOR DEAN RHOADS (Northern Nevada Senatorial District):

As all of you know, my district is called the Northern Nevada Senatorial District and it includes Elko, Eureka, Humboldt, Lander, Lincoln, Pershing and White Pine Counties, and part of Nye County. During my campaign, and since that time, I have been down to my southern counties and several of them resented the name Northern Nevada Senatorial District. I submitted a bill and staff came up with the word "rural" to take "northern" out. I think it would satisfy their complaint. The way things are going, next reapportionment I may be even further south.

SENATOR TITUS:

Does Senator McGinness mind if you claim the term rural even though he has a lot of rural Nevada in his district?

SENATOR RHOADS:

I have not discussed it with him.

CHAIR CEGAVSKE:

We will now close the hearing on S.B. 19. At this point, we could take some action.

SENATOR BEERS MOVED TO DO PASS S.B. 19.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR RAGGIO WAS ABSENT FOR THE VOTE.)

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CHAIR CEGAVSKE:

We would like to open the hearing on Senate Bill 40. We have Brenda Erdoes here to talk to us about this bill, which removes the requirement of printing one copy of bills and resolutions on special paper.

SENATE BILL 40: Removes requirement for printing one copy of bills and resolutions on special paper. (BDR 17-1043)

BRENDA J. ERDOES (Legislative Counsel):

This bill came about because we took over the State Printing Office. They made this suggestion. It would save us about \$50,000 for this Session, because it is expensive to use that paper. It is thicker, you have to recalibrate, and it is a mess. We are going to authenticate the original, probably in a better way than they were. You can buy colored paper at Office Depot. We are going to do it with an embosser, but we are not going to state it in the law. The way we are going to do it will make it possible so if next Session you want to use a hologram or whatever else is available, we can do it. Basically, we were hoping you would expedite this bill so we can start doing it this Session and not spend the money.

CHAIR CEGAVSKE:

I do not know if Senator Coffin talked to you or not, but he came to me because he was concerned about the preservation of the paper. This is the only issue which has been brought to me. He was concerned about preserving those bills, if it made a difference or not. He was going to come and talk to you to see if it was an issue at all.

MS. ERDOES:

He did not. I bet you we can take care of his concern.

CHAIR CEGAVSKE:

I think he was satisfied after he read the bill, but it was the only question which had been brought to my attention. We will close the hearing on S.B. 40.

SENATOR TITUS MOVED TO DO PASS S.B. 40.

SENATOR MATHEWS SECONDED THE MOTION.

CHAIR CEGAVSKE:

Mr. Stewart, what procedure can we do to expedite this so it goes a faster route than normal?

MR. STEWART:

The next step is, as Chair, you would take this down to the Senate Floor as soon as your action report was done tonight. Then you could certainly take it down to the front desk tomorrow to get the process going. Then it would be up to those on the Floor if you wanted to expedite it faster by doing any sort of

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emergency suspension of the rules. You could put it on the consent calendar as well.

SENATOR TITUS MOVED TO AMEND THE PREVIOUS MOTION TO DO PASS AND PLACE S.B. 40 ON THE CONSENT CALENDAR.

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR RAGGIO WAS ABSENT FOR THE VOTE.)

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CHAIR CEGAVSKE:

There being no further business at this point, I call this Committee meeting adjourned at 5:33 p.m.

RESPECTFULLY SUBMITTED:

Elisabeth Williams,
Committee Secretary

APPROVED BY:

Senator Barbara Cegavske, Chair

DATE: _____