

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

**Seventy-Fourth Session
February 6, 2007**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 3:48 p.m., on Tuesday, February 6, 2007, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Mrs. Ellen Koivisto, Chair
Mr. Harry Mortenson, Vice Chair
Mr. Chad Christensen
Mr. Ty Cobb
Mr. Marcus Conklin
Mrs. Heidi S. Gansert
Mr. Ed Goedhart
Mr. Ruben Kihuen
Mrs. Marilyn Kirkpatrick
Mr. Harvey Munford
Mr. James Ohrenschall
Mr. Tick Segerblom
Mr. James Settelmeyer



STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Jackie Valley, Committee Manager
Sheila Sease, Committee Manager
Terry Horgan, Committee Secretary
Trisha Moore, Committee Assistant

OTHERS PRESENT:

Ross Miller, Secretary of State
Brenda Erdoes, Legislative Counsel, Legal Division, Legislative Counsel Bureau
Larry Lomax, Registrar of Voters, Clark County, Nevada
Dan Burk, Registrar of Voters, Washoe County, Nevada
Alan Glover, Clerk-Recorder, Carson City, Nevada
Barbara Griffin, Clerk-Treasurer, Douglas County, Nevada
Janine Hansen, President, Nevada Eagle Forum
Christopher Hansen, Chairman, Independent American Party
Richard Siegel, ACLU (American Civil Liberties Union) of Nevada

Chair Koivisto:

[Roll taken.] I am Assemblywoman Koivisto of Las Vegas. I represent Clark County District 14. This is my sixth regular Legislative Session and my second session co-chairing the Committee. I will serve as Vice Chair of the Committee whenever we address Constitutional amendments.

This meeting is being audio recorded. In addition, the meeting is being broadcast live on the Internet, both in audio and visual format. Please keep in mind that any comments made in this room, even before the meeting begins, or after it adjourns, may be broadcast over the Internet.

I would like to introduce my fellow Committee members: Five are returning members; two legislative veterans will be serving on this Committee for the first time; and six are freshmen. I am pleased to again be working with Harry Mortenson as co-Chair of the Committee. He will preside when the Committee hears measures proposing to amend the *Nevada Constitution*.

I am pleased to have Assemblyman Marcus Conklin, Assemblyman Harvey Munford, and Assemblywoman Heidi Gansert returning to the Committee for 2007. This is the third session for Mr. Conklin and the second session for Mr. Munford and Mrs. Gansert.

On behalf of all the returning members, I want to extend a sincere welcome to our new Committee members. First is Assemblywoman Marilyn Kirkpatrick, who enters her second session. Second is Assemblyman Chad Christensen, who this year is a veteran of three legislative sessions. I would also like to welcome the following freshmen legislators to the Committee: Ruben Kihuen; James Ohrenschall; Tick Segerblom; Ty Cobb; Ed Goedhart; and James Settelmeyer.

Staff for the Committee includes Patrick Guinan, Committee Policy Analyst, who is a Senior Research Analyst in the Research Division of the Legislative Counsel Bureau. In 2005, Patrick staffed the Senate Committee on Transportation and Homeland Security. This will be his first session staffing our Committee.

My personal attaché and committee manager, who will be assisting in scheduling Committee and Subcommittee meetings, preparing agendas, and many other activities, is Jackie Valley. Jackie is no stranger to the Nevada Legislature and will do a great job keeping me and this Committee organized this session. Working with Jackie is Terry Horgan. This is Terry's fifth session. Terry will keep the minutes of our proceedings and assist Jackie with other organizational items for the Committee.

Committee meetings will begin at 3:45 p.m. on Tuesdays and Thursdays. I want to emphasize the importance of courtesy in dealing with other Committee members and staff, and all who testify before us. I expect each of us to respect the people we deal with, even if we do not agree with their positions. I want to emphasize the importance of providing a fair hearing to all parties on all bills scheduled for hearing. I particularly want to point out the importance of public testimony at all our meetings. We must never forget that we are here to serve the public. Their testimony deserves our respect. I also ask that you not be argumentative with witnesses or Committee members. I look forward to working with each of you. We have an excellent group here. I thank you in advance for your cooperation and courtesy.

I will now recognize any members who wish to make their own introductions or comments, beginning with my co-chair, Mr. Mortenson.

Assemblyman Harry Mortenson:

This is my sixth session in the State Legislature and my third chairing the Constitutional Amendments Committee. I am also pleased to be Vice Chair of the Elections, Procedures, and Ethics Committee. My Senior Committee

Manager for Constitutional Amendments is Sheila Sease. This will be her sixth session as my attaché. Trisha Moore is our Committee Assistant.

The jurisdiction of the Constitutional Amendments Committee is any matter that the current State *Constitution* covers, and virtually anything else that our imagination can conceive, that should be in the *Constitution*. I look forward to working with you and all the Committee members on the challenging issues we will be facing.

Chair Koivisto:

You should all have a copy of the Standing Rules for the Committee. Patrick Guinan will run through them for us.

Patrick Guinan, Committee Policy Analyst, Legislative Counsel Bureau (LCB):

These are the Standing Rules for the Assembly Committee on Elections, Procedures, Ethics, and Constitutional Amendments ([Exhibit C](#)). They are similar to the rules for other committees that you serve on. However, I would like to mention a couple of important points: "The precedence of parliamentary authority for the purpose of actions in this Committee is set forth in Assembly Standing Rule 100, except the Committee rules adopted herein shall govern, if not explicitly covered in Assembly Rule 100." Second, if you go to "Motions and Final Action" on the third page, item number three has been bolded. It is a point the Chairwoman wanted to emphasize, and it reads, "Unless a Committee member advises the Chair otherwise, it will be presumed that the member will vote on an amendment or on a measure, during a floor session, consistent with his or her vote in the Committee."

Finally, the last item under "Committee Contact With LCB Support Staff" reads, "All directions, assignments, or requests *on behalf of the Committee* must be communicated to its staff and to the personnel of the LCB by the Chair of the Committee." I would emphasize that "on behalf of the Committee" has been italicized in order to make it clear that all members of the Committee are more than welcome, and encouraged, to discuss with me any research or other assignments you might have for me; however, if they are being requested on behalf of the Committee, you need to go through the Chair. We want to make that clear.

Chair Koivisto:

Any questions from the Committee? [There were none.]

ASSEMBLYMAN CONKLIN MOVED FOR ADOPTION OF THE
STANDING RULES OF THE ASSEMBLY COMMITTEE ON
ELECTIONS, PROCEDURES, ETHICS, AND CONSTITUTIONAL
AMENDMENTS.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED. (ASSEMBLYMAN COBB WAS ABSENT
FOR THE VOTE.)

Now we will have a presentation by the Secretary of State's Office.

Ross Miller, Secretary of State:

[Introduced himself. Distributed copies of the Office of the Secretary of State's *Annual Report*, Fiscal Year 2006 ([Exhibit D](#)).] I also want to introduce staff members here with me today: Matt Griffin, Deputy Secretary of State for Elections; Kate Thomas, Deputy Secretary of State for Operations; Scott Anderson, Deputy Secretary of State for Commercial Recordings; and Nicole Lamboley, Chief Deputy Secretary of State.

As you know, the Secretary of State is the third-highest ranking Constitutional Officer in the State. Our office oversees the Commercial Recordings Division, the Notaries Division, the Securities Division, as well as serving as the State's Chief Elections Officer. The Secretary of State sits on numerous boards, such as the Board of Examiners, the Tahoe Regional Planning Agency, the State Board of Prison Commissioners, and also serves as Chairman of the State Records Committee.

Our Office generates about \$100 million that goes into the General Fund. If you spread that income over our 136 employees, we generate about \$750,000 in revenue per employee. We maintain offices in Carson City, Reno, and Las Vegas. Most of that \$100 million is generated through the Commercial Recordings Division. That Division alone generated \$89 million last year. Dean Heller, the previous Secretary of State, implemented an electronic component that digitized much of the process and made it very easy for businesses to file their documents in Nevada. We are second in the country, behind only Delaware, in the number of commercial recordings we have, per capita.

Anyone doing business in the State of Nevada must deal with the Secretary of State's Office, and we are trying to make those services more efficient by digitizing many documents that are in place. We are also looking at other governmental agencies. We have had preliminary meetings and are integrating many services, so the Office can be more of a one-stop shop for transactions with the State.

About \$20 million of our revenue is generated through the Securities Division. That is an area we want to be very aggressive with. Bad practices are not good for business. We are going to unleash a very aggressive investor education program; and let the communities and investors know they can take advantage of the resources within our office, and that we have enforcement capabilities. There are eight peace officers, all criminal investigators who can investigate those claims; six in Las Vegas and two in Reno. Just last week we had a high-profile arrest. An individual had been targeting the Hispanic community with investment schemes.

On the flip side, we want to use that Office and the resources there to help promote businesses to relocate to Nevada. We have a unique capital market structure, which we can help promote. Coupled with our corporate filing and tax structures, we feel we can effectively promote Nevada.

The Secretary of State is probably best known as the Chief Elections Officer. We have preparations underway for the 2008 election. We are working daily to comply with the terms of the Help America Vote Act (HAVA), which was passed in 2002 at the federal level. The Act put certain minimum requirements in place in all the states for consistency in our administration of elections.

The Feds gave us about \$21 million in revenue. We put that to good use by purchasing electronic voting machines. We were the first in the country to have all our machines with a voter-verifiable paper trail that provides an audit capability, assuring voters their votes were cast, and cast accurately and fairly.

We are actively working on a requirement in the Help America Vote Act that we maintain a statewide, centralized voter database. The previous administration elected to have that function administered by an outside company. After 24 months, we cancelled the contract and implemented our own statewide voter registration database. That mechanism allows the counties to maintain their own individual lists, which are then transmitted to the Secretary of State's Office. We run that list through various agencies at the state level, such as the Department of Vital Statistics and the DMV (Department of Motor Vehicles). To make sure people are qualified to vote, we would like to compare our database

with the Criminal Repository's. They, however, do not currently have a database that we can run ours through, but we are working on that.

We are also working with the clerks who have a bill that we support, which has some general clean-up provisions that we feel are extremely important in running things effectively and efficiently. It would remove many provisions that no longer apply to the way we administer elections now, such as punch card voting. We ask that it be passed so we can prepare for the 2008 Election.

We were asked how many take advantage of early voting. We only have the numbers from Clark County. In 2006, 46% of the people took advantage of early voting. In 2004, about 50% voted early. If you consider a six-year time frame for an election cycle, somewhere between 40% and 50% of the people take advantage of early voting.

When asked if early voting has a positive or negative impact, from a policy standpoint it clearly has a positive impact. It is more convenient and easier for people to get to the polling locations when we have the early voting sites set up. Also, from the standpoint of publication, people become more aware that an election is upon them and that helps increase turnout. That is clearly reflected in the numbers as well. When Clark County implemented the early voting system, the use of early voting was fairly low. However, as it has progressed and become more sophisticated, we are now operating one of the best early voting systems in the entire country. That has definitely had a positive impact on turnout.

If you look at comparable states, their voting turnout has stayed stagnant. By contrast, in Nevada we have seen a dramatic increase. I believe we have gone from being last in voter turnout to being first, due in no small part to the early voting system that we have been able to administer.

You asked what challenges or obstacles early voting created for election officials. It can create difficulties in administration. Procedurally, you have to have many people in place, situated at available sites, but that logistical problem is clearly outweighed by the convenience afforded the voters. We hope that we can get more people to participate in the democratic process and cast their votes.

Other problems that can arise with early voting are legal challenges through the initiative process. That creates complications for the clerks in administering the election, because, as the court cases progress, it shortens the time span for them to actually print the ballots. We have been in discussions with them about

moving the timeline back, so there will not be such a rush to get the sample ballots printed before early voting starts.

Chair Koivisto:

Thank you. During the last Session, we did move the timeline back for the primary election from September to August. Did that have an effect on voter turnout? That concern had been voiced by those opposed to moving the primary election.

Ross Miller:

I do not know if I can answer that. There are many variables that can affect why people do or do not turn out to the polling places. Maybe time will tell.

Assemblyman Munford:

Can an ex-felon hold elected office in the State of Nevada?

Brenda Erdoes, Legislative Counsel, Legal Division, Legislative Counsel Bureau:

The *Constitution* requires you to be a registered voter to be qualified for office. If their rights have been restored so they can become a registered voter, then they could. There is a statutory process currently available to them.

Assemblyman Munford:

What if their time has expired and they are released? Are they still considered an ex-felon?

Brenda Erdoes:

Yes, you are still an ex-felon. In the last legislation that was enacted on this matter, a process was developed. As they are released, they go through that process, so that it actually happens simultaneously with release.

Assemblyman Munford:

I think it is state by state.

Assemblyman Segerblom:

Will your office be doing anything special for the Democratic caucus next January?

Ross Miller:

We do not have a formal role, but we will advise them as to administering the caucus, registration deadlines, and when the voting totals which affect the caucus will come out.

Chair Koivisto:

I received an email before the Session started from a college student who felt there was a voting issue relating to college students who are residents of Nevada; for instance, someone from Las Vegas who is attending school at UNR (University of Nevada, Reno), and registered to vote at their home address. In such a case, the student's parents must receive her sample ballot, request an absentee ballot, then send the ballot back to her in Reno to complete and send back. With statewide voter registration, is there a way we can do something for people like that so they can vote? The problem this person ran into was time; there just was not enough time for the ballot to get back and forth.

Ross Miller:

Administration of those procedures may be better left to the clerks. The easiest way is what the student had already explored, which was the mail ballot system. There are procedural problems in trying to administer elections, even though we have the statewide voter registration database. Each of those electronic machines has to be prepared with a certain ballot style, specific for that precinct's candidates. If you are going to attempt to administer a statewide election that would allow anyone to vote at any polling place, each electronic voting machine would have to be programmed with every ballot style throughout the entire state. It would be difficult and very expensive, and for that reason, those considerations may significantly outweigh just having an individual appropriately apply for a mail ballot.

One of the items we explored, and we may address, is to make better use of the mail ballot system, so people can enroll for permanent status; then, they would not have to apply every year.

Chair Koivisto:

Having no further questions from the Committee, thank you for your presentation.

Brenda Erdoes:

I have a handout for you today ([Exhibit E](#)), and I will just hit the highlights. We have prepared an overview of the problems we have seen, and litigated, regarding initiative petitions in the last few years. This actually started in 2004, but some of those problems are not yet fixed.

What we have are a number of unresolved statutes and Constitutional provisions that remain on the books that mislead people, because they have already been held unconstitutional. In publishing these books, we do put

annotations below them to tell you that they have been held unconstitutional, but that is not always very helpful.

On the first page [of ([Exhibit E](#))] is good news. Last Session you passed a single-subject rule for initiative petitions as well as a requirement that there be a description set forth of not more than 200 words describing the initiative or referendum. That description must appear on the signature page of the actual initiative petition. That is in NRS (*Nevada Revised Statutes*) 295.009. They were challenged this last interim and upheld by the Court.

In 2004, the signature requirements were struck down, and this issue remains unresolved. There are two issues: one is the so-called 13-county rule, and the other is the manner in which the *Constitution* actually requires initiative petitions to be qualified. It has been struck down.

Currently, there is A.J.R. No. 1 of the 22nd Special Session, which would have to be passed again by this Session, and then passed by the voters at the General Election to become effective. It provides for the manner of determining numbers of registered voters by using congressional districts.

State Senator Rhoads, who graciously agreed to let me share his information with you, has requested a bill draft for this Session that would solve the same problems using assembly districts as the qualifier. When Senator Rhoads' Resolution is introduced, it would have to be passed by this Session, the next Session, and then go to the ballot in 2010. That is how far away we are from getting a solution to this particular problem.

At the bottom of page 5 ([Exhibit E](#)), you will note that we still have the issue of the signer and circulator of affidavits. There had been a Colorado case which struck down what we have in our *Constitution*, so the Secretary of State went with a system whereby the person who circulates a petition to obtain signatures on it, could team up with a registered voter who had also signed the petition, so there would be two signatures to make it work. Unfortunately, that was recently struck down as well in Heller v. Give Nevada a Raise, Inc.. That was effective in 2006. That is obviously an issue for the circulators.

On page 7 ([Exhibit E](#)) is information concerning how many signatures were required for a petition. It is the number of voters per an election. This would also be fixed by either A.J.R. No. 1 of the 22nd Special Session, or Senator Rhoads' proposal, but, again, it will be a few years before it can become law.

The last issue I want to address starts at the bottom of page 7 ([Exhibit E](#)) and is the Herbst case, which deals with the anti-smoking initiative petition on the ballot. It was challenged in the Supreme Court before it passed, and the Supreme Court allowed it to go on the ballot. Since then it has been challenged as well in the Eighth Judicial District Court. We do not have an end to that thus far.

Chair Koivisto:

Questions from the Committee?

Assemblyman Conklin:

I am concerned about the initiative petition process and the number of voters required; the unconstitutionality of our current 13-county portion of that; and the time frame we have in which to fix it. Hopefully, this House will pass something that meets constitutional muster, as far as the *U.S. Constitution* is concerned. Then we can send that to a vote of the people, but what happens if the people do not like what we send them? It would be another six years before the next potential Constitutional amendment. At what time does the Supreme Court say, "Your initiatives are not Constitutional because the process by which you have passed them, which you have known for some time, is not Constitutional?" When do we see challenges to past ballot initiatives because the process itself is not Constitutional?

Brenda Erdoes:

I believe you are already seeing those challenges and the results of these things being struck down. The timeframe in the *Constitution* is five years. What has also happened is that the Legislature will pass something, but then there will be another case where that fix is not going to work, so you start over. The Secretary of State has done an excellent job applying the decision we received. Because there is not an applicable law, the Secretary of State's Office distributed pamphlets listing the requirements needed to help people fill out the forms. Basically, that is used instead of the statute for people who want to file initiative petitions; they are going by each Court decision as it comes out. As those keep changing, it is a very difficult world. If we keep this in our *Constitution*, I think you are going to see this until the law on initiatives settles.

Assemblyman Conklin:

The 13-county rule concerns me most because, according to the Supreme Court, it violates the one-person, one-vote rule. Will we see a challenge to an initiative petition that has no legal challenge as far as language, but will be challenged by process, under that specific portion of the *Constitution*?

Brenda Erdoes:

It is certainly possible, but it is less likely, because that is a provision that is generally challenged only when the initiative does not make it to the ballot; in other words, when the Secretary of State decides that it has not met the standards in place. It is possible to challenge something on the basis that it really did not qualify. I have not seen that but I can look for you.

Assemblyman Conklin:

That is okay.

Assemblyman Mortenson:

The unconstitutionality of one-man, one-vote comes from trying to petition the State in various categories. What do other states do that has not been knocked down by the Supreme Court? Can there be no petitions whatever, just take a percentage of an entire state's vote?

Brenda Erdoes:

Yes, you can. What has also been upheld in other states is an assembly district-type situation or congressional district-type situation where you are already apportioned or districted in a way that is acceptable to the process. As far as I know, you can have a statewide standard where all of the votes came from one county, which could happen in this state.

Assemblyman Ohrenschall:

Have the courts ever weighed in on whether the whole process of governing by initiative violates the *U.S. Constitution's* guarantee of a republican form of government? So many states seem to be run by initiative nowadays.

Brenda Erdoes:

I am not sure I know the answer to that. I know the initiative process has been upheld by the U. S. Supreme Court. I am not certain it has been challenged on that specific basis, but I will be happy to look for you.

Assemblyman Segerblom:

In 2005, was there a resolution passed to correct the 13-county-vote problem?

Brenda Erdoes:

Yes. It has a provision about how you qualify, and it goes by congressional district, which has been upheld.

Assemblyman Segerblom:

If we pass that again, it goes on the ballot?

Brenda Erdoes:

Yes, it would go on the 2008 ballot.

Assemblyman Segerblom:

But there is also an amendment that Senator Rhoads has proposed that would change it to assembly districts?

Brenda Erdoes:

Yes. He would start a new one that would have to pass twice.

Assemblyman Segerblom:

Will we, at some point, face the question of whether to vote on the 2005 one or go with his amendment?

Brenda Erdoes:

I believe what will happen procedurally is, because, A.J.R. No. 1 of the 22nd Special Session originated in this House, you will have that first. Senator Rhoads' amendment is still in the drafting stage, but if it is introduced, it will be introduced in the Senate, and I am guessing they will cross if his gets out of the Senate and comes to the Assembly.

Assemblyman Segerblom:

Could we pass the 2005 Resolution and place it on the ballot, and then pass Senator Rhoads' amendment and have that on the ballot in 2010?

Brenda Erdoes:

I do not believe you can. There is a provision now in our *Constitution* that says if two acts conflict, the later one would not go on the ballot. For instance, if you pass Senator Rhoads' amendment this Session and then the 2005 Resolution passed on the 2008 ballot, and they conflict, the second one would not go to the ballot. You could start over again or you could attempt, with the language of this one, to somehow accommodate the congressional district change.

Assemblyman Segerblom:

What is the rule now?

Brenda Erdoes:

Right now, the Secretary of State governs that, and I am not sure what the current rule is.

Assemblyman Segerblom:

For a Constitutional amendment, what percentage of the vote do you need on a referendum? Is that statewide?

Ross Miller, Secretary of State:

Ten or 15 percent.

Assemblyman Segerblom:

Ten percent of the statewide vote from any county, or any combination.

Chair Koivisto:

Next we have a presentation from the county election officers.

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

I think the state of elections in Clark County and in the State of Nevada is very good. We are looked to throughout this Nation as a leader in implementing technology into the voting process. I have had delegations from the Secretaries of State of Louisiana and Georgia visit. A lot of people come to see how we do things because we have been very successful over the last ten years in conducting elections without problems.

With electronic touch screen voting machines that have printers to create a paper trail used to audit and verify an election's accuracy; with an aggressive early voting program; with no-fault absentee voting—meaning anyone can vote absentee in the State of Nevada; and with election day voting, we are able to conduct accurate elections and get the results out quickly. We are making voting accessible to more people than ever before.

This chart being passed out to you ([Exhibit F](#)) is significant, because I was asked to comment on early voting. More people are voting now in Nevada than ever before, and I attribute that to an aggressive and very successful early voting program throughout the state. In 1994, when early voting was introduced in Clark County, five percent of the people who voted, voted early. Each year the percentage of people has grown so that in the 2004 presidential election, 50 percent of the people who voted, voted early. In Clark County alone, more than 271,000 people voted early.

When early voting started, the turnout in Clark County in a presidential election was lower than that in any other western state, as the chart shows ([Exhibit F](#)). In 2000, when participation in early voting in Clark County had grown from 17 percent to 40 percent, Clark County moved up to be comparable with most of the other states. In 2004, the participation in early voting moved up to

50 percent, and you can see that the turnout in Clark County exceeds that in all the other western states, with the exception of Oregon, which does nothing but all-mail balloting. There is a direct tie-in between early voting and turnout.

It is critical you understand the early voting process. We have evolved into early voting. It has grown over this ten-year period. It would be as difficult to stop early voting now as it would be for a county or state that does not have it to start it, and suddenly reach the levels we have achieved. I am talking about the logistics of it. As I pointed out, in 2004 more than 271,000 people voted early in Clark County. If you voted on election day, you know that we had every voting machine we owned out to support the 220,000 who voted on election day. We had lines, but not long ones. If you took the early voting program away, and had those 270,000 people voting on election day, I would have to buy approximately 3,000 additional voting machines at a cost of about \$12 million. I would also have to find 200-250 additional polling places for those machines. Where am I going to find these polling places? I am already using every school there is and most of the churches. Logistically, there are huge problems and costs in suddenly pulling away something that has been so successful, and that the people have come to depend on.

If you look at the errors that are made in an election, the huge majority of errors are made on election day morning when the polls open. I am dealing with a work force of about 3,500 people who have been trained, but they are nervous and trying to remember what they are supposed to do. The same is true the first day of early voting, but they pick up on their responsibilities that first day, and, from that point on, for 14 days, if you vote at an early voting site, you have an experienced, comfortable worker who knows how to process you. As a result, the chance of an error being made is greatly reduced during the early voting period.

A couple of studies have come out stating that there is no proof early voting increases turnout. There is even one study that I am aware of, stating early voting decreases it. What you need to be aware of is that early voting used to mean a lot of things. A state that allows no-fault absentee voting is lumped into the category of early voting, even though they might not have a single early voting site. A state that allows a voter to go early only to the clerk's office is considered an early voting state; so there is a huge range of situations that the term "early voting" covers. When you hear "early voting," you think of what the State of Nevada is doing; that may be different from what the person who did that study meant.

Another thing I always point out is that early voters are happy voters. They chose to be there at that time and place because they want to be there. If they do not want to be there they can leave and go home. They do not have to vote at that time. If you go to an early voting site it is generally a positive, uplifting kind of atmosphere.

On election day, it is just the opposite. You have to be at a particular place and it is usually very inconvenient for you to get there. You are very intolerant of a line, a delay, a mistake, or anything of that nature. It is a completely different environment.

Obviously, the people in Clark County like it—more than 50 percent of the people now vote that way. In 2008, I can assure you, more than 300,000 people are going to vote early and they will depend on us to have those sites out there.

Finally, I do not agree at all with the argument that early voting denies you the opportunity to learn all you can about the candidates. The beauty of early voting is that it is up to you to decide when you want to vote. You can vote on election day if you feel you need that extra time to gather information. I would suggest that you actually saw some of this during the election we just had. For the first time ever, the percentage of people in Clark County who voted early actually decreased a little bit, and considering the events of the 2006 election, it does reflect that there were some people who decided they were going to wait a bit longer, to see if they could find out more about things that were going on before they cast their ballots.

Whatever obstacles there are in early voting, they are more than offset by the benefits. The obstacles can be removed by moving up the initiative process and moving those deadlines back. Legal delays that arise with petitions that have been filed are the biggest problem we have in preparing for an election, as mentioned earlier.

Chair Koivisto:

One of the arguments against moving the primary election date was that the schools would not be open, which might affect voter turnout. What was your experience?

Larry Lomax:

Turnout was right on the prediction. In Clark County there was no impact; it was the same.

Assemblyman Mortenson:

I agree. Early voting is very good in that it is a great convenience for the people. I experienced an election in Clark County where my candidate was decimated on the very last day before the election with an obnoxious mailing. It just destroyed his campaign. He had no time to respond. Jon Ralston thinks you lose some information, but some of that information deserves to be lost if it is a last-ditch smear. I very much support early voting, for that reason.

Assemblyman Munford:

An election in my district will soon be taking place to choose a council seat. You had mentioned at one time changing municipal elections to coincide with the regular election day in November. Is there such a possibility? I know it would be cost effective.

Larry Lomax:

There was a bill in the last session that proposed that change. Most of the testimony I heard was positive, but something happened to the bill.

Assemblyman Munford:

What do you favor?

Larry Lomax:

I do not take a position on it. It is our job to administer the elections. We can do that either way. It definitely would save money to do it all in November. In North Las Vegas, we are holding an election for two wards, each of which has three candidates. There will be a primary and a general election. It is very comparable to elections in other cities, but an awful lot of effort and resources are being expended for a relatively small number of candidates.

Assemblyman Munford:

There is still time to introduce that bill.

Chair Koivisto:

My recollection is that many believed city municipal elections would be totally overshadowed, not get as much attention, and their candidates would have trouble raising money.

Assemblyman Munford:

That was the position they took?

Chair Koivisto:

That was the position they took, yes.

Assemblyman Munford:

That is why it died?

Chair Koivisto:

I think so.

Assemblyman Kihuen:

I know there has been a shortage of bilingual poll workers in the last few elections. Do you still face a shortage now? What are you doing to alleviate the problem?

Larry Lomax:

We are doing all we can. We have worked diligently with the Spanish-speaking media, who have volunteered a lot of time and help to us. We can recruit enough poll workers, but we have the highest dropout rate in that population. A lot of the individuals we are recruiting are doing it for the money. If they can get a job that will pay them better wages, they are not going to be available. It is one of our bigger challenges. We do the best we can and work hard with the Spanish Chamber of Commerce and other organizations.

Assemblyman Kihuen:

I normally work with about 150 students from various high schools who like to participate. Do you have someone who actively recruits students? This past election, I had close to 200 volunteers who, had they been given the opportunity, would have been able to work.

Larry Lomax:

Let me meet with you afterwards and see if we can work something out. The biggest challenge we have with students, is that the primary occurs when there is no school. I need workers for both the primary and the general elections.

Assemblyman Goedhart:

Do different counties have different days for early voting?

Larry Lomax:

The law sets out a time period during which early voting may be conducted. It is a 14-day period, beginning 17 days before the election. Depending upon their resources, different counties are probably open at different times. For instance, you do not have to be open on Sundays. There are certain things you can do differently, depending on the size of your county and the number of voters you have.

Assemblyman Goedhart:

I know there was some confusion because a lot of people in Nye County watched the Las Vegas news, and saw that those early voting booths were open. However, when they went to their local office, they discovered that their early voting days were completely different than those offered elsewhere.

Assemblyman Segerblom:

If early voting were changed to one week, would that be a significant problem for you?

Larry Lomax:

It would. I am not exaggerating. We will have a third of a million people vote early in Clark County.

Assemblyman Segerblom:

I have heard that one of your problems is that you have to open all the early voting sites at the same time?

Larry Lomax:

No, that is not correct and it does not make sense. For instance, the Boulder City Clerk's Office is open from 7:00 a.m. to 6:00 p.m. four days a week for early voting. When we vote at the malls, we are open during mall hours, which are from 10:00 in the morning until 9:00 at night. My mobile teams, which go around to grocery stores, include one team from my labor force setting up at two different sites. One will open one at 8:30 a.m. and then drive somewhere else, set up a site there, and it will open at 10:00 a.m. If you restrict the hours, it makes it harder for me, and I must use more resources. I have a lot of flexibility right now.

Assemblyman Segerblom:

What is the rule now for purging voters? I noticed that, when I mailed first-class pieces, a large number came back.

Larry Lomax:

We do purge, but it is restricted by the National Voter Registration Act of 1993. When we find out that someone no longer lives at the address at which they are registered, we then send a forwardable follow-up postcard, hoping to find that voter. On the postcard it says something such as, "It appears you have moved. Could you please tell us what your new address is?" If they do not respond to that within 30 days, we put them on what is called "inactive status," a very misleading term. Once they have been put on inactive status, they are still registered and eligible to vote, but we are not going to send them any more mail

because we do not know where they live. Only after being placed on "inactive status," and failing to vote in two consecutive federal elections, another four years, can we take them off the rolls.

Assemblyman Segerblom:

Do you know if the mail houses keep those inactive people on their lists?

Larry Lomax:

I have no idea what the mail houses do.

Assemblyman Segerblom:

Is that information on the tape you give them?

Larry Lomax:

Yes. We have voter registration rolls on our website, separated by active and inactive.

Assemblyman Segerblom:

Do you mail a first-class letter every two years?

Larry Lomax:

We go through a major process every two years to identify inactive voters. We work with the address change service at the Postal Service and match files. Anytime we send correspondence to someone, and are told they have moved, we follow this process.

Assemblyman Segerblom:

What about people who have died?

Larry Lomax:

That is a different issue. We work with the Office of Vital Records. We get a list from them every month. The Secretary of State was mentioning that the goal was to get a statewide system interactive with the State's Vital Records' system to identify those who are deceased. If we are notified that someone has died, they will come off the rolls right then. There is no requirement to leave them on.

Chair Koivisto:

We have some housekeeping to do because we are going to lose a Committee Member soon. This is a Committee bill, and it would help provide transparency in elections. I will take a motion.

BDR 24-170—Requires limited-liability companies that engage in certain political activities to register with the Secretary of State (Later introduced as [Assembly Bill 80](#).)

ASSEMBLYMAN CONKLIN MOVED FOR INTRODUCTION OF
BDR 24-170.

ASSEMBLYMAN MORTENSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Assemblyman Ohrenschall:

Is it possible some people on the inactive list are apartment dwellers or mobile home dwellers who did not properly fill out their unit number? Could 20 percent of those living at that address, but not having properly filled out their registration, be not receiving their mail?

Larry Lomax:

Absolutely. The only thing I take issue with is the "10 or 20 percent." It is definitely possible, and, in fact, we know that happens. No matter where you live, if you give us the wrong address, our mail will be returned to us as undeliverable.

People who are inactive, who have been placed in this status by us and sent this card, always show up every election and vote. About 6 percent of the people who vote are people who are on inactive status in Clark County.

Assemblyman Ohrenschall:

Those who show up, who are inactive and seek to vote, can they vote a general ballot, or just a provisional ballot?

Larry Lomax:

They are registered voters; they get to vote at the address at which we show them registered. We also have a procedure by which, if an inactive voter shows up, we ask them to fill out a change of address card or update their address. They are reactivated when they show up.

Assemblyman Segerblom:

Has anyone done a study to see if there is any statistical difference between the vote a candidate gets in the early vote and the vote they get on election day?

Larry Lomax:

I get asked that a lot. When we release our early voting results on election night, if, at that point in time a candidate has 57 percent of the votes, then, when all election results are tallied, the percentage will be 57 percent, plus or minus 1 percent, which means it is the same. I have never seen it change by any significant amount at all.

Dan Burk, Registrar of Voters, Washoe County, Nevada:

Nevada really is the most progressive state in the nation as far as its election system. There is no aspect of our system that lags behind.

In Washoe County, we have seen a remarkable growth in early voting. Ten years ago we had 4,000 people who voted early in our general election. In the general election just completed, 42,000 showed up for early voting, which surprised us, because we assumed that in a non-presidential election there might be a drop in numbers. Instead, we went up to 42,000.

I agree with Mr. Lomax and also with what Mr. Mortenson said. It does seem to be here to stay. We always worry about the blue-collar worker who cannot get an entire day off on election day to come down and vote. It gives them the convenience of voting on a weekend or during the evening. I hope the Committee will continue to support it.

You asked about the effect of moving the primary election up to August. If you talk to any election official in the United States, they will say the number one problem is getting enough people to work at the polls. Moving the primary from the day after Labor Day into August has made a tremendous difference for us. For the first time we are able to recruit enough people. It does give us some flexibility, and we were able to use students for the first time.

One member of this Committee asked about a student from Las Vegas who was attending UNR, and discovered too late that she could not be involved in the election because there was not enough time to mail the ballot to Las Vegas. This begs the solution: allow people to ask for an absentee ballot on a permanent basis. At UNR, we always have a staff member at the registration process. We have a booth there specifically for the purpose you brought up. For many reasons, a permanent absentee status would be a positive step forward.

I know some people will criticize that, saying, "How do you know you are not just sending this ballot off time after time? When does this come to an end?" We can have a "trip" in the process. We can say that a failure to vote in two general elections, or something similar, would result in reversion back to a

notice. If you do not respond to the notice, then you are removed back to regular status. Or, we can send a follow up letter, as Mr. Lomax does.

Mr. Munford asked about an effort to move elections to one day. You are right. Some cities chose not to do that because they thought it might undermine awareness of their candidates. This happened to us in Washoe County, in Reno and Sparks, our two largest cities. We moved Reno's city elections to the general election. The cost to Reno for the election was \$41,000. The election prior to that cost Reno \$138,000. It took longer to change Sparks's city election date, but once that happened, Sparks is now paying, on average, \$11,000 to \$14,000 for their election. Prior to that, they were paying about \$64,000, so there are tremendous savings to be gained. The concern about people not being aware of the candidates has not proven to be true. Turnout, at every single election since the change, has been larger than prior elections, so it is simply not true that you would lose awareness about the candidates.

Chair Koivisto:

To follow up on moving municipal elections, my recollection is that turnout for municipal elections held in May or June was only 10 or 15 percent.

Dan Burk:

Turnout was miserable. This is a much more effective use of money.

Assemblyman Munford:

Maybe we should do something about that in Clark County, combine the elections. Your data is overwhelming. I think the general public in Clark County might be receptive, once they see how successful it has been in your area. Madame Chair, should we introduce a bill?

Chair Koivisto:

We will have to talk about it.

Assemblywoman Kirkpatrick:

Is there a requirement, and does it differ throughout the State, on how many poll workers you need to facilitate early voting?

Dan Burk:

It is not the same as on election day. On election day, you are required to have one precinct chair and two precinct board members, at least one of whom does not belong to the same party as the others. We would like to see some progress in that area. As far as early voting is concerned, you do have a little more

flexibility. We always maintain a minimum of five people at each location, and we always have diversity as far as political party affiliation.

Assemblywoman Kirkpatrick:

Is that different throughout the State?

Dan Burk:

The guidelines are the same throughout the State. We all follow exactly the same rules in regard to the early voting operation, and also the election day operation. The assignments of staff for operational management are made up by our own staff—what we think we will need; how many people we will have; how many people we will be serving; and what the size of the polling place is—all are issues we have to address.

Assemblyman Munford:

What is the distance at which you can approach voters as they come to the polls? Is it 1,000 feet now?

Dan Burk:

It is 100 feet from the entrance door into the polling place for political activity on election day. It is 100 feet from where polling is taking place during early voting.

Assemblyman Munford:

So you mean inside, where the machines are, it is 100 feet from there?

Dan Burk:

In early voting, yes, but on election day it is 100 feet from the door or entry to the polling place itself.

Assemblyman Munford:

So you cannot address anyone coming in unless you are 100 feet away?

Dan Burk:

Yes, that is correct, unless you are doing exit polling. Post-election polling can actually occur within 100 feet and up to the door.

Assemblyman Ohrenschall:

To follow up on your idea of permanent absentee status, do you think we will ever have a secure Internet voting method where people can vote online and not have to worry about appearing in person? Would they verify who they are through some kind of code that would be mailed out?

Dan Burk:

The Sandia Corporation in New Mexico has been working on it for more than 30 years, off and on, and we have not yet been able to answer all the issues of security. There actually have been two rather well-publicized vote-by-telephone elections that have occurred, but to date there really has not been an effort to go forward. In Oregon, they found a very secure way to vote by mailing a ballot.

There are always complaints, particularly from advocates for minorities and the poor, and others who say it is an inherently unfair system when you have people who have voting in their home using electronic equipment, whereas people who do not have such equipment would be disadvantaged. They would have to go to the library, or be set up with the registrar of voters. It sets a different bar for the activity, so therefore no one has wanted to go forward with it.

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

One issue the rural areas have is how to handle their agreements with the Sequoia Voting System, the company itself. The agreement we are now working under is between the State of Nevada through the Secretary of State's Office and Sequoia. The State of Nevada purchased the voting equipment, the tabulating equipment, and so forth, with HAVA (Help America Vote Act) funds. This includes their software licensing, the service and maintenance agreements, and the support agreements.

Under the agreement that has expired or soon will, Sequoia charges the State \$200 per precinct to program the election. Clark and Washoe Counties program their own elections, so only the 15 rural counties must pay someone else to do that. The software program is very expensive and there were not enough HAVA funds to pay for every county. That fee is going to increase \$40 to \$60 per precinct. Those of you on the Government Affairs Committee are aware that a number of the counties such as White Pine, Lincoln, and Mineral really do not have any funds.

The question is how we are going to pay for these agreements in the future. The Secretary of State has been working on this issue. It looks as though there will be HAVA funds available to pay through 2008 and, hopefully, 2010; but the question is still out there in the long term.

We are also working on the issue of who owns these machines. The State bought them through HAVA funds, but Clark County bought their own. Some of the machines in Washoe County were bought with HAVA funds and some with

their own funds; the same for Lyon County. We have a mixed bag of who owns the machines, but we have one contract. The Secretary of State wants to maintain ownership of the machines through his office and through the State of Nevada, at least for the time being, and to negotiate the contract, which is a good idea. If we have to negotiate the contract with Sequoia individually, that puts the counties at a real disadvantage. Frankly, Sequoia does not want to go out to White Pine, or Lincoln, or Elko Counties, because it is very expensive for them to send people out there. The Secretary of State's approach to this is a reasonable one and we are pleased to have his input on this issue.

Over all, in the State of Nevada, I think our election law is good. We have good, solid election law. The last elections went well. The voting machines did exactly what they were designed to do. We did have some problems with some machines. Their screens would go blank. It did not affect the votes, but it did diminish the number of machines available for people to vote on. Sequoia is going to fix the machines.

In the 2006 election, 47 percent of Carson City voters voted early; 47 percent voted at the polls; 7 percent voted absentee. In 2004, 47 percent voted early; 41 percent voted at the polls, and 11 percent voted absentee. We have been very pleased with early voting.

Our election bill, which will be introduced on the Senate side, is based on S.B. No. 386, 2nd Reprint of the 73rd Legislative Session. The provisions in it are everything this Body and the Senate agreed to, plus some additional provisions and clean-up language. Hopefully, it will be non-controversial.

One provision in the bill would result in a little more flexibility for early voting, especially on Saturday, the first day of early voting. We are supposed to be open from 10:00 a.m. until 6:00 p.m. In the rural counties, Storey for example, they may only get 20 people the entire day, but they must have a crew sitting all day. We are asking that that be changed to four hours, and let the clerk decide which four hours work best for them. By contrast, Carson City would like the flexibility to open earlier than 10:00 a.m.

Assemblyman Segerblom:

Is it true that even though we have paper printouts of how a person voted, you cannot actually count those or compare them to the electronic count?

Alan Glover:

You can. We are using them for audit to prove that the votes on the machine match what are on the rolls [of paper], and that is exactly what we have done.

We took 2 percent of the rolls, in our case 4 machines, wrote all the votes down, and compared them with what the machines said. That is how we audit to prove they are exactly the same, and that is what we want. We want to simply prove that the machine counted accurately, and it does.

Assemblyman Segerblom:

So those little strips are kept, and you pick four machines at random to audit?

Alan Glover:

Right.

Barbara Griffin, Clerk-Treasurer, Douglas County, Nevada:

In the 2004 election, Douglas County had a 92 percent voter turnout. It was one of the highest in the Nation; it was the highest in the State. Fifty percent voted early. In 2006 we had a 75 percent voter turnout with 45 percent voting early. Early voting is extremely popular. The public likes early voting. We have lines before we even open those polls. I have satellite locations, as many counties do. It is well received and the voters are grateful the Legislature put it in place.

I do support Dan Burk's suggestion of permanent absentee ballots. I do a form of that now in Douglas County, because I do my best to reach the voters. Anyone I have on the list who is an absentee ballot voter is sent a letter and a new request form at the beginning of each election year, asking them if they wish to receive an absentee ballot again that year. That way I can have them in the system, and I will have them in ahead of time to prevent the problem of students going off to school and not getting their ballots.

We actively try to determine who our absentee voters are and have those processed as quickly as possible.

We did not see any significant reduction in our voter turnout as a result of the primary being moved. Moving that date into August made our lives much easier, so thank you.

The costs of elections have increased considerably since HAVA was passed. In Douglas County, before HAVA, an election cost us about \$75,000. It now is about \$200,000. The costs are going to continue to rise. Douglas County has sub-precincts. The programming costs from Sequoia are only for precincts. I have been told they are now going to include the sub-precincts so the cost will go up significantly.

Many of the small counties are strapped financially and they are really having a difficult time. We do not have anything in place for replacement equipment or for additional equipment and this State is one of the fastest growing in the nation. We are concerned about the future and how we are going to continue to have these machines available. Several counties are using their early voting machines and then turning them around and using them on election day. That is not an ideal situation. We need additional help with funding to get more machines back to the counties. It also leads us to look to the future of elections in Nevada, and consideration of doing mail-in elections. The state of Oregon does 100 percent mail-in elections. They have a higher voter turnout than Nevada. Washington left it up to the counties giving them the option of whether or not to do mail-in elections, and all but two counties have converted to mail-in elections. They discovered they have a higher voter turnout and the cost of the elections is less.

Wyoming is also discussing mail-in elections. We have to look at the future in a different light than what we have seen in the past. As far as our statewide voter registration system, we are very appreciative that Secretary of State Miller will continue to use the batch-up process. It has been successful and continues to work for all the counties. We are able to keep our current systems, which saves on cost. We are batching-up daily to the State.

Like my fellow Clerks and Registrars of Voters, I believe we have an excellent election system in the State of Nevada. Our laws are concise and clear, and all of us are committed to providing accurate elections and an accessible process for our voters. We look forward to working with you and helping to get some of the language cleaned up for the punch card system.

Chair Koivisto:

A number of people have signed up for public comment.

Janine Hansen, State President, Nevada Eagle Forum:

I am distributing to the Committee members a paper I had prepared ([Exhibit G](#)) on the issues of petitioning and the ongoing litigation.

Last Session I opposed the single-subject rule and the 200-word explanation. I said when I opposed those things that they would cause increased litigation, and that is precisely what happened. Because of those rules, several petitions, which had received overwhelming support with more than 150,000 signatures from the people, were removed from the ballot or changed by the judges.

The initiative process was placed in our *Constitution* in 1912. There was no single-subject requirement in 1912. The original *Constitution* did have a single-subject rule, but not applying to initiative petitions. The purpose of initiative petitions is to give people a way of responding to issues if the Legislature is not responsive.

What happened last time, the Legislature circumvented the Constitutional rule, and put in statutory rules that interfered with the essential right of the people to access the right of initiative petition. If people, especially volunteer organizations or average people in Nevada, want to do an initiative petition, it is now going to be impossible. Unless you have a huge war chest so you can afford to hire attorneys to defend you on numerous issues, such as single-subject, or the explanation, you will not be able to participate as a citizen in the initiative process in Nevada.

I continue to be concerned about the process, because with every additional rule we place on the Constitutional right of petition by the people, we make it more inaccessible. This trend seriously concerns me. Maybe it is the purpose of the Legislature to make it more difficult. But the people want that process available to them. It is an important check, because even with petitions that fail, it brings up an issue that can be dealt with more adeptly by the Legislature.

We are going to have issues this Session dealing with the 13-county rule. I always favored the 13-county rule. I have gone to every county, on more than one occasion, to teach people how to petition. These people were volunteers who were interested in participating in the process. It is good to have the entire State involved. If you determine to pass a piece of legislation that would require that one collect signatures in every single assembly district, you might as well sign the death warrant of the right of petition. It will be impossible for average people to go out, especially in a place like Clark County, and figure out which Assembly District they are in. It will also be difficult in counties that have multi-county Assembly Districts.

Although it meets the requirement of the federal court to have this according to population, it destroys the right of the people by making the logistics absolutely impossible. I dealt with the 13-county rule when I gathered petitions, and just getting the signatures by county was a very difficult and intense process.

I also want to mention HAVA, the Help America Vote Act. This is a federal mandate. Our State could have opposed that federal mandate. What happened? We accepted the federal funds and now it has cost us a whole lot more. That is usually what happens when we accept federal funds. As you have seen today,

we know how to run credible elections in our own State. We do not need the federal government to tell us how to run elections.

Regarding the issue of the affidavit circulator signer, there is a place on the petition where the circulator and document signers' signatures must be notarized. Let us say we had 13 signatures on one petition, you would have to have that petition notarized twice. It does not improve the process in any way. It did not make it more honest, more fair, or more secure; but it did make it more difficult, more time consuming, and more costly. We certainly want a fair and honest process. I always train my volunteers carefully, and try to screen out those who would not do it correctly. We want a good process, but we do not want one that is burdensome.

Sometimes those who are violating the law are not the individual citizens, and the citizen's right to participate in the process has to be protected. After you passed the petition law in 2003 that mandated that State agencies and buildings allow people to gather signatures there, my son and I were arrested and jailed. It went all the way to the Supreme Court and we were exonerated. What I am saying is the citizens are not always at fault in not being able to follow the law. Bureaucrats and others need to be aware of the rights of citizens to participate in the process. We thank you for passing that law, improving it last session, and for your concern about the rights of citizens in participating in the process.

Chair Koivisto:

Let us go down to Las Vegas where we have Christopher Hansen.

Christopher Hansen, State Chairman, Independent American Party:

The Independent American Party is the third largest political party in the State of Nevada. I represent 43,000 registered voters.

The Chief Election Officer in Nevada is the Secretary of State. He just testified before you that he has eight peace officers who cover corporations. There are no officers covering or protecting election law.

During 2005 and 2006, people were arrested, as were my sister and nephew, and I was continuously harassed and threatened with arrest by the Department of Motor Vehicles, by a bailiff at the Clark County Courthouse, and by other governmental agencies. When we tried to get relief from the Secretary of State, he refused. When I asked for relief from the Clark County police department, instead of coming out and interviewing the people whose rights had been violated, they talked to the government employees. It would be nice if we could

mandate a law enforcement officer to actually assist in these kinds of cases. The chief law enforcement officer of elections can also levy civil fines against government employees.

The last Secretary of State did not levy one fine against anyone who was working for the government, especially the Department of Motor Vehicles, even though they admitted they had violated the law, and recently settled out of court because of those violations.

Robert F. Kennedy, Jr., wrote an article for *Rolling Stone Magazine* in which he selected four states as having the greatest amount of voter fraud. They were Ohio, Florida, New Mexico, and Nevada. In the 2004 election exit polls, John Kerry was thought to have won by 7.5 percent. The official election results showed George Bush winning by 2.3 percent. Election polling is used throughout the world to determine whether or not there is fraud in elections. If it exceeds 2 percent, it is considered to be fraud. In the State of Nevada in 2004, it exceeded 10 percent.

When I was campaigning for Governor, I spoke to a class at Silverado High School, and the subject of Spanish ballots was brought up. The complaints came from non-English speaking students, especially a Korean girl. We are not supposed to have separate but equal status in Nevada, nor in the United States, yet people who speak Spanish are given greater access to the ballot than are people who speak Korean, Japanese, or French. Either we have one language in the State of Nevada in which to vote, or we need to have languages for everyone. All minorities should be included, or none of them should be included.

I would highly recommend everyone on the Committee watch the HBO (Home Box Office) special called "Hacking Democracy," to show how easy it is to get into these machines that everyone is saying are so accurate, hack them, and make it so not even the Registrar of Voters, or the people working on them, can tell what has occurred.

In the last election, I personally challenged about 4,000 voters in Clark County to test the system and see what the word "district" meant. The Supreme Court determined that the word "district" meant at least the size of one county but did not have the same meaning in the election laws as far as the challenge laws were concerned. That word probably needs to be corrected since the district court has now said that the word "district" has no meaning whatsoever in the challenge laws. Larry Lomax, speaking in the Senate, said that needed to be corrected.

I challenged a person named "Roger Rabbit." I do not know if Roger Rabbit is a real human being or a cartoon character, but this person was not challenged, even though I attempted to challenge him.

The company that built the voting machines we have is owned by Venezuela. We are allowing them to determine our elections in Nevada. This needs to be looked into. I think we should get rid of the Sequoia machines, and at least buy machines made by an American company, not by a company owned by a country we are practically at war with.

Government employees violated the election laws for years, and American Independent Party candidates have had to battle that. Larry Lomax violated the rights of one of our people trying to register to vote, and who ended up running for County Treasurer in Clark County. The dispute went to District Court, which ruled Mr. Lomax had violated the individual's rights. On appeal at the Nevada Supreme Court, it was upheld. I tried to get the law enforced. The Supreme Court of the State of Nevada said it was a felony that did not have to have *mens rea*, meaning you had to have no intent to commit a crime, but if you did commit one, it was a felony. We contacted the Attorney General's Office. That office contacted my brother's office and threatened to have me arrested if we went through the process of having Larry Lomax arrested and charged with a felony.

We cannot get any enforcement of our election laws. We cannot get it with the Department of Motor Vehicles, we cannot get it with Larry Lomax himself, and we are still looking at ways to get Larry Lomax arrested. We are still considering a private person's arrest, which is allowable under the *Nevada Revised Statutes*.

Since we have been threatened by the Attorney General's Office, we have been trying to get a warrant, but it is very difficult for an individual to get a warrant for the arrest of a government employee who is violating the law, committing anything from a felony to a gross misdemeanor. The Secretary of State's Office can file civil penalties up to \$10,000 against anyone who violates the election laws. In our case, even though the State of Nevada agreed that the Department of Motor Vehicles had violated people's rights and threatened those people with arrest, no one was fined. No one was arrested. How can you have a fair election system when the people who are supposed to be enforcing the law refuse to enforce the law?

In 2004, my son Nicholas ran for Constable of Henderson. He would have been 20 years old at the time of the election. The Legislature immediately changed the law. Now one must be 21 years old to run for Constable. Another of our

candidates was 17 years old. She ran for Public Administrator. She turned 18 just before the election, which allowed her to run. The Assembly changed the law and now one must be 21 years old to run for Public Administrator, yet County Clerks, County Treasurers, or County Recorders can all be 18 years old. This was a direct attack on the Independent American Party.

It does not end there. The Independent American Party is not allowed to have a primary election. Larry Lomax sends out sample ballots before the primary elections. At the top of the sample ballot it says, "Democrat candidates, Republican candidates, Non-partisan candidates." The Independent American Party, the Green Party, and the Libertarian Party are kept from participating in this process. In other counties, non-partisan ballots are sent out to non-partisan and minor parties; a Republican ballot is sent to Republicans; a Democratic ballot is sent only to registered Democrats. In Clark County, Larry Lomax is advertising for the Republicans and Democrats, leaving the Independent American Party and the other minor parties completely off the ballot.

As you may know, I ran for Governor. When I tried to enter the debates, I was continuously rebuffed. The minor parties are never allowed into the debates in Nevada. In other states, minor parties are allowed into the debates. In some states, I understand, it is required by law. The rule established by PBS (Public Broadcasting Service), is that to be a minor party candidate and be allowed to enter any major debates, such as the Governor's debates, you must have 10 percent of the total number of registered voters in Nevada in your party. That is an interesting rule, since if you have 10 percent of the total number of registered voters in the State of Nevada, you become a major party. So the rule that has been established is that a minor party must be a major party in order to be allowed into the debates.

There are also some problems with the reporting of election requirements when one runs for office. In 1985, Congress passed two laws. One was to create a gold dollar; one was to create a silver dollar. There is also a one dollar federal reserve note. It takes approximately 15 one dollar federal reserve notes to buy 1 silver dollar, yet the Supreme Court of the State of Nevada has ruled that all of these are dollars. One cannot receive more than \$5,000 in a single contribution if you are running for office, according to Nevada election laws. Yet if someone gave me 5,000 silver dollars, it would mean I received about \$75,000 in one dollar Federal Reserve notes, and it would be completely legal. I refused to sign the election campaign report this year on advice of counsel because the State of Nevada says it is a felony to sign a document under penalty of perjury and say you have done something you do not know to be

true. I could not guess if it was true, so I refused to sign because I did not know how many dollars I received or spent during the election.

The problem is that the State of Nevada cannot determine what a "dollar" is. I asked the Attorney General exactly what a dollar is. He told me he could not tell me that. How can anyone sign a form, under penalty of perjury, asking how many dollars they spent or received when the Attorney General's Office cannot tell me what a dollar is?

The Board of Governors of the Federal Reserve informed me the word "dollar" has no set value. How can we enforce any laws on people or fine them \$20,000, as I was fined, when we do not know what a dollar is?

There was a case in front of Judge Porter in 1998, in which an individual tried to register to vote. He was 18 years old and did not have a Social Security Number. He was allowed to vote. The Assembly passed a law that Social Security Numbers were no longer allowed. Now that HAVA has been instituted, you need the last four digits of your Social Security Number. Congress, in starting the Social Security system, said that the Social Security Number would never be used as an identifying number and yet it is being used as an identifying number, people are not being allowed to register to vote, and are being discouraged from voting because of this issue.

I agree with the ACLU (American Civil Liberties Union) on the problems with voter registration requirements, and what you must demonstrate in order to sign up to register for office. It has been determined that between 10 and 20 percent of the people who would normally register to vote would not be allowed to register to vote if the rules under HAVA are enforced within a state. This hurts minorities and minority parties.

Chair Koivisto:

Do we have any questions from the Committee? [No answer.] Is there any additional public comment?

Assemblyman Ohrenschall:

This comment is to Mrs. Hansen and her son. I am sorry you and your son had to go through the process of being arrested, but sometimes it takes really brave people to get the law to change.

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

I will come back and speak to the Committee on Thursday.

Chair Koivisto:

There being no further business to come before the Committee, we are adjourned [at 6:00 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblywoman Ellen Koivisto, Chair

DATE: _____

EXHIBITS

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

Date: February 6, 2007

Time of Meeting: 3:45 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Chairwoman Ellen Koivisto and Chairman Harry Mortenson	Standing Rules of the Elections, Procedures, Ethics, and Constitutional Amendments Committee
	D	Ross Miller, Nevada Secretary of State	<i>Annual Report</i> , Fiscal Year 2006
	E	Brenda Erdoes, Legislative Counsel	Presentation on initiatives
	F	Larry Lomax, Registrar of Voters, Clark County, Nevada	Clark County, NV early voting trends & turnouts in elections
	G	Janine Hansen, State President, Nevada Eagle Forum	Paper entitled, "Litigation Regarding Initiative Petitions"