

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-Sixth Session
February 15, 2011**

The Committee on Legislative Operations and Elections was called to order by Chair Tick Segerblom at 1:33 p.m. on Tuesday, February 15, 2011, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, 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/76th2011/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:

Assemblyman Tick Segerblom, Chair
Assemblywoman Lucy Flores, Vice Chair
Assemblyman Marcus Conklin
Assemblyman Richard (Skip) Daly
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman William Horne
Assemblywoman Marilyn Kirkpatrick
Assemblyman Richard McArthur
Assemblyman James Ohrenschall
Assemblywoman Debbie Smith
Assemblyman Lynn D. Stewart

COMMITTEE MEMBERS ABSENT:

Assemblyman John Ocegüera (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Terry Horgan, Committee Secretary
Michael Smith, Committee Assistant

OTHERS PRESENT:

Ross Miller, Secretary of State
Larry Lomax, Registrar of Voters, Clark County
Alan Glover, Clerk/Recorder, Carson City

Chair Segerblom:

[Roll was taken.] Today, we are very honored to have presentations from the Secretary of State and also from the county election officials.

Ross Miller, Secretary of State:

Good afternoon, Mr. Chair, Vice Chair, and members of the Committee. I am the Nevada Secretary of State, and I am here today to review the overall responsibilities of the Office of Secretary of State ([Exhibit C](#)). We are the third-highest-ranking constitutional office. There are 5 deputies and a staff of 130, of whom 8 work in the Elections Division. Of those eight, two are federally funded by the Help America Vote Act of 2002 (HAVA).

Our main office is in the Capitol, and we have smaller offices in Reno and Las Vegas. In addition to elections, we oversee commercial recordings and all the business licensing. We have a Securities Division that licenses investors and notaries public. We serve as the official record keeper for the state; we register domestic partners, oversee the Living Will Lockbox, and deal with a host of other programs. It seems as though anytime the Legislature has an idea and they cannot determine where to put it, it ends up in our office.

I serve on a number of boards, including the Tahoe Regional Planning Agency, the State Board of Examiners, and the Board of State Prison Commissioners. Obviously, with relevance to this Committee and what the public most commonly associates with my office, my role is chief elections officer. Our ability to maintain the integrity of a transparent and accessible election system is what gives Nevadans a voice in government. When Nevadans lose

confidence in that process, they lose confidence in the entire structure of government.

With that task comes enforcement of Title 24, which are the elections statutes; enforcement of HAVA; and the certification, registration, and filing of candidates' campaign contribution and expense reports. We certify ballot questions, maintain the Confidential Address Program, and generally administer statewide elections.

I would like to start with what is sometimes referred to as Nevada's fourth branch of government—the initiative petition and referendum process. Many of you are familiar with that ballot system, where the public has access to the ballot to propose referendums and initiative petitions, which can include statutory initiatives or constitutional initiatives. Constitutionally, they are required to obtain a number of signatures—at least 10 percent of the voters who voted at the last preceding general election.

In 2009, the Legislature changed the law to establish petition districts requiring that signatures must be gathered in each of the three congressional districts. That will expire, and I know there are a number of bills proposed to further define those petition districts. For the upcoming 2012 election cycle, 10 percent of the vote would be equal to 72,352 signatures statewide, and there are dates for submission of those signatures on the slide you are viewing as well as on page 4 of my handout.

We are also responsible for the administration and enforcement of Nevada's elections laws and for ensuring that Nevada remains in compliance with the Help America Vote Act of 2002. Many of you will remember that legislation as being the result of the Florida elections in 2000. After that experience, Congress saw fit to put more standards in place to improve regularity and consistency among the states. With that, Congress passed sweeping legislation that put requirements on states but also, for the purposes of this Committee, provided a substantial amount of funding. To date, Nevada has received \$23 million in federal funds under HAVA, including about \$800,000 in 2009 and \$700,000 in 2010. We have about \$6.5 million left. We are waiting to hear whether or not Congress will appropriate any new funding to meet the HAVA requirements. I just left the winter conference of the National Association of Secretaries of State in Washington, D.C., and the consensus among many of the secretaries is that additional funding does not seem to be likely. As a result, we will need a long-term plan in order to determine how this state, as well as all the others, want to proceed in terms of maintaining the equipment necessary to carry out elections.

As part of HAVA, we were also mandated to put in place a statewide voter registration list. We have done that, it is very successful, and we work in concert with the counties in order to maintain that list. Some of you may have used that list in your campaigns.

For Nevada, 2008 and 2010 were very closely watched election cycles. In 2008, we were not only an early caucus state but also a battleground state. We saw the highest turnout we have ever seen in any election, and I am very proud of the election we were able to run. With the national media focused on Nevada, the elections officials in all 17 counties and all the volunteers at the polling sites should be very proud that, by and large, there were not the types of irregularities seen in other jurisdictions.

The elections of 2010 were also very significant, with the U.S. Senate Majority Leader on the top of the ticket. The primary election was moved from August to June, thus changing the requirements for many candidates and some of the campaigns. Overall, we ran a very efficient election. We tried to encourage the use of technology, which made our process much more efficient. We put in place a voter look-up tool we entitled "My Voter File," which allows people to get basic data as to their voter registration status, their polling location, and their elected officials. It also allows people to subscribe to a future "do not call" list which will mask their phone number on the voter registration list. This should relieve them from some of the robocalls that many people are frustrated with.

Significantly this last election, Nevada was also proud to lead the way in the federal Military and Overseas Voter Empowerment Act (MOVE), which made it easier for military men and women to vote. We had legislation in place before the federal government required it that allowed people to email their ballots back. That was a very successful program and one we continue to hear very positive feedback on from the military men and women who were able to use it.

As we are beginning preparation for the 2012 presidential election year, and obviously, Nevada again is going to play a very crucial role. It looks as though we will again be an early caucus state, which in my opinion is one of the most important things Nevada has obtained in the last couple of years. Every other state is interested in moving earlier in the calendar; somehow we have found the means to have a carve-out, so presidential contenders will be coming to Nevada to debate issues. That will allow for campaign organization much earlier in the cycle. We anticipate a good number of election protection attorneys here in 2012 to follow our election administration very closely. Certainly, it is going to be a very hotly contested election. In addition, we will have a fourth Congressional seat in play, which will only increase the stakes.

Our early vote has been a tremendous success. This is a program that perhaps was best implemented in the country by Larry Lomax, the Registrar of Voters in Clark County. We saw about 53 percent of the voters in 2010 take advantage of the opportunity to vote early. Fifty-eight percent voted early in 2008. For those of you who live in Clark County, you know you are able to vote, as you can in Washoe County, in shopping malls, libraries, and even grocery stores. It works for us. It is a tremendous success, and we have received considerable media attention as a result of it. Early voting is a concept that is unusual in many jurisdictions. At the National Association of Secretaries of State conference, other states' election officials are amazed at the number of voters we are able to process through our early voting cycle. Well over half the people who cast ballots will do so prior to Election Day. It allows us to remove the strain of trying to push the entire population through polling locations on Election Day.

Notably, starting with the 2008 election cycle, the Elections Division and our Information Technology (IT) Division implemented a new election night reporting website. SilverState08.com was the first website we used. In 2010, it was renamed SilverState2010. It included real-time updates for statewide, federal, and local candidates. That night, we broke new records for web traffic for the state. We received 34.6 million hits between 7:30 p.m. and midnight. That will give you a perspective on how closely watched the Reid-Angle race was. We were proud of the fact our website was able to sustain that amount of traffic, and we certainly received positive feedback from it.

This year we also launched a pilot program in Clark County to allow for online voter registration, which was available to unregistered residents of Clark County. We are only the ninth state in the country to offer a completely online option for unregistered voters, and we are very proud of the system. It is, in essence, much more secure than the paper-based system. One of the reasons we wanted to move toward this system is that, in order to register to vote online, you must first have a driver's license or ID card, so it allows us to immediately verify the eligibility of that voter. We can also verify whether or not the individual has a valid and proper address, and we run those checks instantaneously. The other reason online registration was a tremendous benefit to the clerks and other election officials is that putting this information online eliminates the burden of the clerks having to input that information manually. Sometimes there are typos, which we can correct immediately. Overall, this is much more efficient. We are looking to expand that pilot program during the 2012 election, and I think we should have some success in doing that. Many of the clerks I have spoken with realize the benefit of putting this in place. It is a much more secure and efficient system. I think it is clearly the future and where registration is headed.

In terms of usage, although Clark County has a much higher percentage of registered Democrats than Republicans, we actually saw more Republicans using the online voter registration system than Democrats. If you look at the online voter registration statistics in Clark County, you can see that 807 Republicans took advantage of the program versus 625 Democrats, whereas the total for new registrants for Clark County was 4,500 Democrats and about 2,600 Republicans. That was significant, because anytime you implement something new, there are often skeptics and concerns as to whether it will benefit one party over another, and I do not think we have seen any evidence of that. In the nine states that use it, it has had bipartisan support.

As everyone is undoubtedly aware, we have also had some contentious campaigns and elections in the last few years, but something I am very proud of is the fact that when I campaigned in 2006, I assured the public that, as a former criminal prosecutor, I was going to take very seriously any election law abuses we discovered. We had seen many complaints that failed to be investigated in previous election cycles, so beginning with the 2008 elections, we formed what we termed the Election Integrity Task Force. That is a cooperative effort among my office, representatives of the Attorney General's Office, local law enforcement, the FBI, and the U.S. Attorney's Office. It is the only task force of its kind in the country that has created this kind of partnership, and it is now being held up as the national model by the U.S. Department of Justice and the FBI for how to respond to election law violations.

As part of the Task Force, we meet on Election Day and prior thereto to sort out any complaints any agencies received. We have a command center on Election Day with liaisons in each of the counties who will help respond to those types of complaints. This Task Force has already uncovered significant instances of election law abuses, and we have held those individuals accountable. I am confident that if we move forward to a very closely watched 2012 election, the Election Integrity Task Force will also play a key role.

Finally, I want to touch briefly on some of the provisions of campaign contribution and expense reporting. This is an area where Nevada lags behind very significantly. By most estimates we are dead last in campaign transparency. I do not think there are many legitimate excuses for why Nevada could not improve. We, and others, will be presenting legislation that will help rectify that deficiency. Every time an out-of-state group gives Nevada an F for campaign transparency, the single biggest deficiency they point to is the fact that, although we mandate basic information in terms of reporting requirements, that information is not available in a way that is accessible to the public. We also allow those reports to be filed only seven days before an election, which means the reports can be mailed by certified mail from places such as the state

of Maine, which means they would not be received in my office until after Election Day. We also allow for the filing of handwritten reports. Obviously, that is not a format that the public would be able to sift through. In my mind, the biggest way to rectify that would be to mandate that the reports be filed electronically. Then the media, the general public, and other candidates would have easy access to that information. That is the area in which we could make the most significant impact. That alone would not move Nevada from an F to an A, but I would be happy with a C, and I think that one change would get us a passing grade.

Also, with electronic filing the reports could be due just prior to early voting. As I mentioned before, over half the people who vote will have voted by the time those reports are made available to the public.

Assemblyman Hickey:

How soon would those reports appear to the public prior to an Election Day?

Ross Miller:

Under our proposal, they would be due approximately four days before early voting. A second report would be due a couple of days before the actual election date. Because we would mandate that they be filed electronically, they would be immediately accessible. The other problem we have with that limited window is that we receive reports from all over the state, which obviously creates a backlog that presents a significant challenge in scanning all those reports and getting them online quickly.

Assemblyman Stewart:

Would people who are contributing to an election campaign still be contributing after the report was due? Would that still be an accurate report? If the report is due earlier, it seems as though people would hold off making their contributions.

Ross Miller:

This is a good point and something I tried to address in the legislation I proposed last session. Unfortunately that legislation failed, but my proposal last session was to move the reporting requirements earlier and to mandate that any contributions in excess of a certain dollar amount, and I think \$2,000 is probably the right amount, be filed with our office within 72 hours upon matriculating that check. I do not think that requirement would present too much of a burden to candidates receiving small monetary checks, but would still give the public a fair chance to know that right after a reporting deadline a developer did not bundle a \$500,000 contribution that might have an impact on whether or not the individual would want to vote for or against a certain

candidate. I think that is a common sense proposal. The argument at last session was that the 72-hour requirement was too cumbersome for candidates to meet. Frankly, I do not understand how that can be true because that same candidate could receive a check, endorse it, get it to the bank, deposit it, and spend it. The individual should be able to send us a simple electronic notification it had been received. I am open to putting that language back into my bill. Last session, that proposal simply had too much opposition, and I do not want to kill the entire campaign finance package by putting controversial provisions in it.

Assemblywoman Kirkpatrick:

I would like to ask about education—your training process. As a new candidate, I found it was very cumbersome because of all the paperwork I received. Do you envision training concerning the best practices on how to report campaign expenditures and income? I personally use the online report because I think it is easier and I can update it almost daily, but what do you envision? Currently, we offer ethics training. Do you envision a way for new candidates to understand how the process works?

Ross Miller:

Sure, that is a reasonable proposal. We would certainly be willing to enter into discussions as to how we could try to do that. When you file for office, we walk you through a pamphlet that lists requirements, we provide you with a folder, and give you an elections book.

Through our legislation, we are also trying to streamline the process. As you know, some of the forms must be filed with the Ethics Commission, some are filed with us, and some are filed with the county clerks. Under our proposal, if we can mandate that those reports be filed electronically, we would be willing to assume responsibility for the filing of all reports. We would also attempt to clean up some of those forms so there would be only one form in many instances.

Assemblywoman Kirkpatrick:

Because I want to consider my friend Mr. John Carpenter, the former Assemblyman, who said that not everyone has electronic devices, do you envision that being an issue in some parts of our state?

Ross Miller:

I believe the provision in last session's legislation allowed for an exemption. If you completed an affidavit indicating that you do not have reasonable access to be able to file these reports electronically, we would accept a handwritten report. I would still be open to that. If it is the will of the Committee, and you

think the overall sentiment in the Legislature has changed, the 72-hour reporting requirement for a contribution above a certain threshold would make sense and is something we could certainly explore. We would add a carve-out for anyone who did not have access to computers.

Assemblyman Horne:

Are there any prohibitions from generating revenue from your website? You showed the high number of hits your website had, so I am curious about why we have not utilized the space to the left and right of the screen for advertisement. Has that ever been explored?

Ross Miller:

I do not know that it has been explored, and I have not seen it used in other states. With our current budget crisis I know everyone is looking for ways to fund government, but I am not certain selling our election night reporting website is the best proposal.

Assemblyman Horne:

For my law firm, I utilize the Secretary of State's website a lot throughout any given calendar year for various different purposes. It need not only be on election night; there is other information on the website I provide to my clients.

Ross Miller:

Some states have done that, mainly in the area of commercial recordings. One of the most heavily used areas of our website is the business entity search. One can enter an officer name or company name and find out basic details about that company. Some states do charge a subscription service fee. We have always allowed that information to be in the public domain so the public can access it. Given the amount of revenue that division attracts, it is my opinion that is a reasonable service we should provide to the public because we already charge substantial fees to be able to incorporate.

Assemblywoman Flores:

You indicated HAVA might not be funded in the future. Was the bulk of the money for implementation and to bring Nevada into conformity with the Act? Are you suggesting that a large portion of those funds are actually used for maintenance? How much do you anticipate we will need in the future once those funds, if in fact they do, run out?

Ross Miller:

That is a difficult question to answer. The bulk of the funds thus far have been used to purchase electronic voting machines. We are the only state to have the same machines used in all counties. We have 6,900 touch-screen voting

machines statewide and 31 optical-scan machines to read absentee ballots. Every election cycle we use a portion of the HAVA funds to replace machines and provide for overall maintenance. We still have a significant balance of about \$6.5 million. Relative to other states, that is probably a little bit better than average. Eventually, these machines will need to be replaced, and either we will need to move to a different method of running elections or we will need to look at how to provide funding to replace these machines on a large scale.

Prior to this budget cycle, we looked at the situation and determined replacing the machines would cost approximately \$18 million. That is not something that would be palatable for this legislative session. We are not unique. Just about every state is running out of funds, and thus far Congress has not made any commitments to try to address the problem.

Chair Segerblom:

This last election our primary was in June for the first time. Can you comment on whether the change was good or bad?

Ross Miller:

The positive aspect of moving the primary to June was that it gave us more time to prepare the ballots. Being an initiative petition state, where we always have extensive litigation as to what questions will be on our ballots, creates challenges. Having our primary in September presented a real difficulty. If there had been a recount subject to extensive court challenges, or if some of the court challenges related to the ballot questions had gone on for very long, I do not know that we could have administered an election on Election Day. Keeping the primary in June gives us more time in order to be able to prepare for the general election.

The other significant issue is that the federal government implemented a provision called the MOVE Act, which I alluded to earlier. The MOVE Act requires we mail ballots to military men and women overseas 45 days prior to an election. That 45-day requirement was aggressively enforced by the Department of Justice and they sued several states. Some of the states with late primary dates were able to obtain waivers for the last election, but those waivers may not be extended. Those states are attempting to move their primaries earlier in the calendar so as to more appropriately meet the federal requirement. We would be one of the few states trying to move the primary closer to the general election. I understand the concerns about elections lasting too long, but in my opinion that is only one component of the discussion. The deeper consideration should be given to the fact we need to run an election we can be proud of. At the end of the day, we want the public to be assured that

the votes were counted fairly and accurately. Moving the primary closer to the November election deadline would jeopardize that.

Chair Segerblom:

Can you analyze the August 2008 primary versus the June 2010 primary as they relate to voter participation?

Ross Miller:

In 2008, 17.9 percent of the active voters turned out to the polls. In 2010, 30 percent of the active voters turned out to the polls. I am not going to try to make the case that the difference was due as much to when the primary was held as it was to the candidates who were on the ballots. In 2008, there were not very many hotly contested races generating much interest, whereas in 2010, Nevada did have some significant primaries that seemed to increase the turnout.

Chair Segerblom:

What about the form we file concerning money on hand? Are you prohibited by law from having a simpler form we could file on our campaign expenditure reports, or have you not had a chance to change it?

Ross Miller:

That is one of the areas of campaign finance reform that would increase the level of transparency in the state, and that was hotly debated last session. It was eventually pulled from some of the legislation that went through. There is nothing that mandates that a candidate file his on-hand balance. Certainly you would have access to that information if you wanted to add up all their previous reports. Even absent a reporting requirement, a move toward electronic reporting would help the public identify how much cash an individual had on hand; however, it is not currently a requirement in law and would take an amendment in order to put that in place.

Chair Segerblom:

Are there any other questions? [There were none.] Thank you very much for coming, Mr. Secretary.

Now, the county registrars and clerks will make their presentation.

Larry Lomax, Registrar of Voters, Clark County:

I appreciate the opportunity to talk with all of you. I have been asked to give an overview of how things are in Clark County, and I will address some of the questions that have recently been asked as well.

Those of you from Clark County should be very proud of the way elections are conducted in your county. We continue to set the standard for the nation, and are recognized throughout the election community as integrating technology into the election process.

As the Secretary indicated, our last two major elections in 2008 and 2010 were significantly followed by media from all around the country and the world. We had visitors from over ten foreign countries in 2010 alone because of the Reid-Angle race. Because we are a tourist center and because we have early voting in all the malls, tourists as well as the national media see what we are doing. The single most common comment we hear is "Why don't we do that in our state?" What they are talking about is that we have an electronic voting machine with a paper trail printout, and voting is available right where people would go even if the voting machines were not there—supermarkets, malls, and community centers.

Before early voting was initiated, the percentage of registered voters who voted in Clark County and in Nevada was the lowest of any state in the West. Now that we have early voting, it is the highest. As the turnout for early voting has progressed, so has the turnout as a percentage of registered voters in Nevada and Clark County. We have now reached a point in early voting where essentially two-thirds of the people who vote have already voted by Election Day. For us in Clark County, that means from 250,000 to 400,000 people have already voted at one of our early voting sites, so they are not standing in line on Election Day. Obviously, that is a win-win situation for everyone—the people who are early voting are happy because they have it out of the way, and the people on Election Day are not standing in long lines.

I would like to emphasize that our voting equipment works, works well, and is well maintained. Six technicians take care of our voting equipment in Clark County, and I would match their knowledge of how our machines operate with anyone in the country. The machines do exactly what they are supposed to do—they respond to a touch, and they clearly indicate where the machine was touched. I know you must have heard rumors of Senator Reid's name popping up on some voting machines in this last election; that is simply because the machines were inadvertently touched. Curiously enough, although you might have read some media reports about this occurring, never did anyone bring it to the attention of a poll worker. One lady in Boulder City claimed it had occurred on her machine and on her husband's machine, and that all the machines in the polling place suddenly read "Senator Reid," and yet we had a Republican poll watcher and a Democratic poll watcher in that polling place all day long with all the other poll workers, and no one ever made a complaint to the poll workers. The lady went home, called a newspaper, and made the

accusation. I can assure you that the machines work, and I do not know why these rumors get started. The results we report on election night are exactly what the voters indicated on those machines, I can assure you of that.

After every election, we sit down to determine how we can improve things. Most of our effort during the last two years has been focused on our website and integrating that kind of technology into the process. As with every other department in Clark County, funding has become more difficult and we are not replacing people who leave. Now we have eight fewer people in our department, which is about a 25 percent drop. As a result, we are coming up with better ways to do things. Secretary Miller mentioned online voter registration, which has the potential of being very beneficial. It is every bit as secure as receiving a paper application and entering the data ourselves. The added benefit of voters entering the data is that they know how to spell their own names and addresses. Many times we cannot read the information on the forms, so having the voter do it eliminates the requirement for our data entry clerk to process the data.

Currently, our biggest problem is simply getting the word out that online voter registration is available. Right now, it is available only to people registering to vote for the first time. We want to expand it as soon as possible to include changes of address, changes of party, and changes in general, which are about half the applications we process. In a big election year like the 2008 presidential year, we processed over 400,000 applications, which is a lot of man hours devoted to the process.

We have put almost everything you can think of on our website and made it available to the voters to, hopefully, cut down on phone calls. Voters can look up all their registration information, find their polling places, and print their sample ballots. If they requested an absentee or mail ballot, they can track it, find out where it is, and see whether it was received. We also serve you, the candidates, because all the voter files are available to you. You may download any kind of information you want, including someone's voting history. You may now print a walking list for various precincts; you do not have to wait for us to do it. Very soon we will have precinct maps available on the website. We are trying to do everything we can so that you and the public do not have to rely on us.

There was a significant bill last session, Senate Bill No. 162 of the 75th Session, that moved the primary date forward to June. Up through the 2004 election, the primary was in September. The Justice Department has always had a federal guideline that says the soldiers' and sailors' overseas ballots must be in the mail 45 days ahead of the elections; Nevada had a statute

that said 40 days, if possible. After a September primary election, we have not even canvassed the results when that 45-day deadline arrives. After the results are canvassed there is a three-day period during which a recount may be requested. If one is requested, we must conduct the recount. So there are various hurdles along the way before we can begin preparing ballots. When a ballot is prepared in Clark County, it is not one ballot. In any given big election, there are over 305 ballot styles. Ballot styles result from the 29 Assembly districts in Clark County, the multiple Senate districts, plus all the other districts. When all the permutations and combinations are totaled, there are over 300. The machine ballot must be prepared in English and in Spanish, and there is also an audio version in English and in Spanish. All these must be prepared and proofed—the mail ballot in English and Spanish and the sample ballot in English and Spanish. These are all independent processes, so there is no possible way to comply with the 45-day deadline.

The primary was moved to August during the 2005 Legislative Session, so the first August primary was held in 2006. Conversely to the 2008 primary, 2006 was the biggest turnout of any primary we have had since I have been here. The time of year may have something to do with turnout, but turnout is primarily driven by you folks—it is the candidates who bring the voters out. We had a very, very large turnout in 2006. In 2008 we had a huge presidential caucus in February, but there was not anything interesting on the primary ballot, and there was a very low turnout.

No one liked August for the primary. August is a miserable time of the year to vote in Clark County because average temperatures are around 105° to 115°. The discussion last session revolved around moving it up to June or back to September. In 2009, Congress passed the MOVE Act, which created a federal requirement that ballots must be in the mail to sailors, soldiers, and overseas civilians 45 days prior to the election. The Justice Department sued every state that did not comply. Every state with a September primary had to apply for a waiver. The Justice Department approved a few waivers, but the waivers that were approved caused the states to move back the final date for them to canvass their elections. In other words, if your mail ballots were sent 19 days past the 45-day deadline, you had to accept mail ballots from overseas 19 days past the election.

For the first time ever, we were able to get our ballots out 45 days before the general election because we had a June primary. For the first time, we were also able to prepare ballots without working overtime. A September primary means the minute we can start working on ballots we work 24 hours, as does the printer. We saved approximately \$150,000 because we had five months between the primary and general elections to prepare the ballots, so we did not

have to work weekends or any 24-hour schedules. Again, we will work whatever hours we have to, but it is expensive because we are paying overtime for work on weekends.

One thing that has helped us quite a bit was specifically setting the primary election for the second Tuesday in June, as opposed to the first Tuesday, because school is out by then. In Clark and Washoe Counties, schools are used as polling places, and security at schools has become a huge issue. They do not want strangers—voters—appearing at schools. We worked with the schools in Clark and Washoe Counties, which agreed to make the November Election Day a teachers' in-service day, so there were no students in school, but I do not think we could coordinate that if the primary was in September. From our perspective, holding the primary in June was hugely beneficial. Temperatures were in the 80s as opposed to the 110s. We saved a lot of money and for the first time, we were able to get our ballots out to overseas voters and members of the military on time.

Elko County officials, because of a printing issue that was not their fault, got their ballots out four days later than the 45-day deadline set by the Justice Department. The Justice Department monitors that deadline very closely and sued Elko County. The Secretary of State had to work it out and accept military ballots four days beyond the election.

One challenge moving the primary to June presented us with was training election workers. State statutes require that every worker be trained before the elections. When the primary election was in September and the general election was in November, the elections were so close together we needed only one training period. When the elections became stretched out over five months, training became a whole new issue. In Clark County, we came up with an online training system. Election workers must watch five different videos and test after each one. There are logins, so we can actually monitor that the video was watched, and the workers must pass the tests that go with the five videos for their positions. Because we were able to develop the videos ourselves, there was no cost to the county, and the huge expense of bringing people back in for training was eliminated.

The second bill that tied into this was Assembly Bill No. 41 of the 75th Session. This involved the MOVE Act, which stands for Military and Overseas Voter Empowerment. It was passed by Congress in 2009 as a result of things that occurred during the 2008 election. The whole act is focused on making certain people overseas have an opportunity to participate in an election. What was hugely beneficial to us, as Secretary Miller indicated, was that for the first time we were allowed to use the Internet for voters overseas. An overseas voter

basically emails us an attachment. The form is called a Federal Voter Postcard Application. They fill it out and sign it, but instead of having to mail it to us, they can scan it, attach it to an email, and send it to us as a PDF so we can print it out. Now, we have a paper document with their signature on it. That form can be used both to register and to request an absentee ballot. It even has a place to check if you want to vote by email, and there is a place to supply an email address. When we receive that form, we can turn it around within a 24-hour period. We pull the appropriate ballot style and send the ballot as an attachment to a PDF. If it is a general election containing ballot questions, a PDF that has all the questions and the arguments for and against can be emailed. The overseas voter can print it and fill out the ballot. Testimony in 2009 clearly indicated that, in this day and age for folks overseas in the military, it is much easier to get access to a scanner than to a fax machine. Fax machines are becoming obsolete as a result of email and scanning. By the time one receives a fax from overseas, it is hard to read, whereas an attachment to an email, when printed, is crystal clear. We had almost 500 people from overseas participate in this program.

I would like to mention how redistricting affects the clerks. You will be involved in drawing the district lines. If you think of Clark County as a clean slate because everything is going to get redrawn, right now we have city boundaries and township boundaries. As the redistricting process progresses, congressional district lines will be drawn, as will Senate lines, Assembly lines, State Board of Education lines, University Regent district lines, and then Clark County Commission district lines. When we went through this in 2001, no one who was drawing lines coordinated with anyone else who was drawing lines. The net result was, when all the lines were overlaid in Clark County, a number of small intersections and small cutouts were created that we had to turn into precincts. After you have done your work, and we have been handed all these new district lines, the clerks' job is to create precincts. A precinct is a voting area in which everyone is represented by the same political representatives. A precinct costs money when a county is putting on an election, because for every precinct there is a ballot style. In addition, we must print mail ballots for each precinct, and we have to have precinct signs and roster books. These are not huge costs, but collectively they add up.

Because of this uncoordinated methodology, we ended up with precincts that had one house, or three houses, or five houses in them. It costs just as much to print a mail ballot for a precinct that has 1 house as it does for a precinct that has 15 houses or one that has 3,000 houses. I do not have a good solution for this problem. We did testify at one of the redistricting meetings with some suggestions, but I do not know how it will work out.

In 2003 we identified a number of these little precincts containing only one or two houses, and we were able to get the Legislature to redraw some lines in order to smooth out the complications. It would help if you are able to develop a solution for this, as it does confuse the voters.

Finally, regarding other election-related bills that might be discussed in this Committee, my advice generally is the old platitude, "If it ain't broke, don't fix it." I do want to emphasize a couple of things. First, there is an enormous disparity in the size of the counties in this state, as you well know. It will not be too much longer before Clark County will have one million registered voters, while there are other counties in the state that have only a thousand. The solutions that might work best for one county are not necessarily the ones that would work for the others. I ask you to keep in mind that we need flexibility among the counties because there is no one-size-fits-all solution. A good example is, we currently have a law requiring the counties and cities to stay open until 9 p.m. the last three or five days of registration, depending on the size of the county. I have been to a number of clerks' meetings and heard them say they stay open during the weekend, but no one comes in to register, but that is what they have to do because the law says they must. In Clark County in a presidential election, we may have several hundred people come in to register. So, the counties have different problems and flexibility would be appreciated.

I do want to emphasize that, to the best of my knowledge, every clerk in this state works very hard and is absolutely committed to the integrity of the election process. Whatever you decide is the proper way to conduct elections, we are all going to do our best to be sure they are conducted efficiently and economically in a manner that best serves the people of Nevada.

Alan Glover, Clerk/Recorder, Carson City:

I do not have too much to add to what Mr. Lomax has already said. The experience we had in the north was very similar to what they had in Clark County. Because the 2010 election contained a contentious U.S. Senate race, we were quite concerned how that was going to come out, but it was one of the best elections we have ever put on here in Carson City. The June primary really did help us quite a bit. We had a particular problem in printing the ballots because we had to print the candidate's name and also the complete name of the political party. If the candidate's name was really long and the party name was really long, several proofs going back and forth between State Printing and our office were necessary to work the situation out.

You mentioned the MOVE Act, which this Committee implemented last session with Assembly Bill No. 41 of the 75th Session. It worked really well and made

it much easier to get ballots out overseas. I was very disappointed in our turnout, however, because I had really high expectations. I thought everyone we sent an email ballot to would vote one. Looking at the figures ([Exhibit D](#)) there were 109 requests for overseas and military ballots, of which 60 were eballots. Of those 60 eballots, only 33 were returned; however, for the first time we had the ability to send reminders, and we did. We were able to send notices to everyone that we had received their requests; we sent notices that we had sent them their ballots. If the ballots did not come back to us, we emailed the voters again, reminding them to vote their ballots and that they needed to be in the office by 7 p.m. There are a lot of people who do not take voting as seriously as we do, and for whatever reason those eballots were not sent back. But it was not because the voters did not receive the ballots, nor was it because they were not reminded to vote. Hopefully, the percentage of returned ballots will rise next election.

The rural counties, and Carson in particular, are very interested in having online voter registration, as Clark County has. Apparently, that has been a big help for Clark County, and the other counties would very much like to have that extended to the rest of the state.

Online reporting also would be very helpful. It is so much easier to fill the reports out online, and almost everything nowadays is done online. Again, the biggest problem we have with the campaign contribution and expense reports is that the candidates do not know where to file them. We tell candidates if they must file for office here in Carson City, they need to send us the reports. Frequently, candidates take their reports to the Secretary of State's Office, which most of the time notifies us and sends us a copy. I think having one place to file and offering filing online, assuming the form is a good one, would help all candidates greatly. The general public would also benefit and be able to see a nice, clean view. Some handwritten reports are difficult to read, so you do not know who donated the money or where it was spent. I am an advocate for having the contribution and expenditure reports due prior to early voting. I early vote, and there have been a number of occasions when I really wanted to see a report but was unable to.

Another area I understand the Secretary of State is working on concerns online registration and having that same kind of provision at the Department of Motor Vehicles (DMV) because 90 percent of our registrations now come in through the DMV, and some of them are very hard to read. They transpose letters and numbers. Sometimes they provide their social security numbers to us instead of their driver's license numbers. They are at the DMV to get a driver's license, but they do not use that number. Under the system the Secretary of State

proposes, everything must be entered correctly to be accepted. That would help.

I have been disappointed in the U.S. Post Office. Congress has been on them for years, and they have promised to treat election mail and ballots well. We received half a dozen ballots two days after the election that were postmarked at least two days before the election. Maybe we need to talk to our Congressional delegation about this. I realize getting directives down from administration to someone working at the post office is probably not an easy task, but when I saw those late ballots arrive, I was really upset. The ballots had been held in the Reno post office. We go to the Carson post office and sweep it for ballots late in the afternoon on Election Day. California had a major problem with a post office in the Riverside area. I do not know if it can ever be solved because we must depend on the people working in the post offices and how seriously they take their jobs.

Concerning redistricting, Carson City had the same problem as Clark County did ten years ago. After the lines were drawn, three residences on the north side of the valley did not fit into any area and we could not make them a precinct all to themselves. Working with the Secretary of State and the District Attorney and our state Senator and Assemblyman, we moved those three residences into the Capitol Senate District because their votes needed to be counted somewhere. During the next legislative session, the Legislature corrected that district line for us. It is important to talk to the different entities when drawing the lines.

That, Mr. Chairman, is all I have. I am looking forward to working with this Committee this session.

Chair Segerblom:

Thank you. Do you audit the electronic machines and the paper ballots after an election?

Larry Lomax:

Yes, the law requires us to audit 2 percent, so 2 percent of the paper trail is randomly chosen. For Clark County, that is normally about 80. The printed results are matched with the electronically recorded results.

Chair Segerblom:

Are you aware of any case in which someone has voted fraudulently?

Larry Lomax:

By fraudulently, do you mean voted twice?

Chair Segerblom:

Either voted twice or voted where he or she was not supposed to vote.

Larry Lomax:

I am not aware of anyone who assumed someone else's name or anything of that nature. There are some instances where people have voted twice and those have been turned over to the authorities to investigate, but those were small numbers.

Chair Segerblom:

Right now, you limit voter registration to 30 days before the election, but someone can vote at your office until . . .

Larry Lomax:

The fifth Saturday before the election is the close of registration, and it always works out to be the same numerical day, so it is October 2 for a November 2 election. That is the last day on which we can accept a registration from a third party or via mail postmarked by that date. After that, there is a ten-day period during which people can come into our office and register in person. We need that cutoff of the fifth Saturday so we can enter all the data by the next Tuesday. At that time we send a file to the printer and begin the addressing and labeling process for the sample ballots that will be sent. If everything works perfectly, that allows us to get the last sample ballots in the mail and received by the voters on the Thursday before early voting begins.

The ten-day in-office period was originally set up with the intention that we could hand sample ballots to them. That did not work. We do not always have the sample ballots printed because of other reasons or delays, so now we are mailing sample ballots to the people who register during the ten-day period. Options available now include online registration. If someone registers online, once they have received confirmation that they are registered, they can go vote right then. We can easily extend that deadline at no cost to us because there is no work involved on our part.

Chair Segerblom:

Are those instantaneous? How long between registering online and receiving notification?

Larry Lomax:

Under the system the Secretary of State has set up that is currently functioning in Clark County, part of the process is that your data is cycled through the DMV's database, and it has to match exactly. If it matches exactly, a copy of your signature will be pulled into our system, and it is going to tell the voter,

"Congratulations, you have successfully registered." If there are any hiccups, if the data did not match exactly, or if there are any other problems, then the person will receive a message explaining what the issue is. He might have made a mistake entering his data, or he may have to come into the Registrar's Office in person.

Yes, it is essentially instantaneous. They are in our database and could go to an early voting site, for instance, after they have registered.

Assemblyman Stewart:

You said there had been a few instances of people voting twice. How did they vote twice?

Larry Lomax:

It was provisional voting. In the State of Nevada, if you are a registered voter and you do not want to go to your polling place, you may vote provisionally. The person voted provisionally at another polling place. We will have a paper record that the individual voted there, but it is not in any database. Then, the person decides he is going to go to his polling place, votes again, and signs in the roster book. Because we have only eight days to canvass the election, we do not have time to look at everyone who provisionally voted and verify whether they voted on Election Day because there is no database at that point in time. It is not until after we have the opportunity to go through all the roster books, and scan a barcode next to the name of each person who voted, that we actually have a database of voters available to match up. We do not have the manpower to match 5,000 provisional voters and hunt through the roster books to see if there is a signature in there for one of them. I think about five or six people did this. This has happened in the past, the District Attorney has investigated, and in each case it was attributed to confusion. They tend to be elderly people, and they have not been prosecuted.

Assemblyman Stewart:

I think you do a great job and commend you for all you do. Would it be possible for a person who knew the precinct of a friend or family member, and knew that individual's signature, to vote for that person?

Larry Lomax:

It would be possible because identification is seldom asked for in accordance with the laws in the State of Nevada.

Assemblyman Stewart:

In filing one of my reports, I had a difficult time finding that address on Trade Drive. If you could put that address in a more prominent place on the packets you give us, it would be appreciated.

Alan Glover:

Four years ago, we had someone who voted twice. It was our fault. The lady had voted early and was allowed to vote again at the polls on Election Day. We did not know that until all the data had been entered, which was sometime in December. We planned to prosecute this lady; however, she turned out to be a very elderly lady with Alzheimer's. Her granddaughter brought her in to early vote but never told anyone in the family. Her daughter brought her in to vote on Election Day, and the family did not realize she had voted twice until Thanksgiving dinner. It was our fault; she should not have been allowed to vote. It was a human error on our side. There was a rumor this year that a lady had voted her daughter's ballot because the daughter could not make it back from her university. We tried to trace that rumor but could not find anyone who would give us any information. If that was true, the signature was not checked.

Chair Segerblom:

Are there any other questions? [There was no response.] Thank you both very much for coming. Is there any public comment? [There was no response.] Seeing nothing else, the meeting is adjourned [at 2:49 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblyman Tick Segerblom, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Legislative Operations and Elections

Date: February 15, 2011

Time of Meeting: 1:33 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Ross Miller	Handout of his power point presentation
	D	Alan Glover	Statistics for Carson City from the last three general elections