

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

**Seventy-Sixth Session  
March 1, 2011**

The Committee on Legislative Operations and Elections was called to order by Chair Tick Segerblom at 1:36 p.m. on Tuesday, March 1, 2011, 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/76th2011/committees/](http://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](mailto: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 C. Horne  
Assemblywoman Marilyn K. Kirkpatrick  
Assemblyman Richard McArthur  
Assemblyman John Ocegüera  
Assemblyman James Ohrenschall  
Assemblywoman Debbie Smith  
Assemblyman Lynn D. Stewart

**COMMITTEE MEMBERS ABSENT:**

None

**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  
Barry Smith, Executive Director, Nevada Press Association  
Jan Gilbert, representing the Progressive Leadership Alliance of Nevada  
Lynn Chapman, Washoe County Chairman, Independent American Party,  
and representing Nevada Families  
Janine Hansen, President, Nevada Eagle Forum, and National  
Committeewoman, Independent American Party  
Rebecca Gasca, Legislative and Policy Director, American Civil Liberties  
Union of Nevada  
Bettye Gilmour, Private Citizen, Henderson, Nevada  
Russell Best, Private Citizen, Lyon County, Nevada  
Thomas Cornell, representing the Libertarian Party of Nevada  
Dan Hickey, Private Citizen, Clark County, Nevada  
Rita Hickey, Private Citizen, Clark County, Nevada  
John Wagner, State Chairman, Independent American Party  
Alan Glover, Clerk/Recorder, Carson City  
Woody Stroupe, Private Citizen, Clark County, Nevada  
Carole Long, Private Citizen, Clark County, Nevada

**Chair Segerblom:**

[Roll was taken.] Today we are going to hear from the Secretary of State on Assembly Bill 81 and Assembly Bill 82. Because the Secretary of State must take time out from his busy schedule, we will hear from the Secretary on both bills before we take testimony either for or against them.

[Assembly Bill 81](#): Revises various provisions relating to elections. (BDR 24-406)

[Assembly Bill 82](#): Makes various changes relating to elections. (BDR 24-407)

**Ross Miller, Secretary of State:**

Thank you for inviting me here this afternoon to discuss [A.B. 81](#) and [A.B. 82](#), legislation pertaining to Nevada's election laws, including online filing of campaign reports and financial disclosure statements, voter registration activities, campaign finance issues, declarations of candidacy, filing fees, and other related provisions ([Exhibit C](#)). This legislation contains 155 pages and has a lot in it because we are behind the curve. Of all the provisions you will find in [A.B. 81](#) and [A.B. 82](#), none are more important than the electronic filing of campaign finance disclosures, the change in deadlines to make those filings more relevant and up-to-date, and the ability for the Secretary of State's Office to be the single entity, statewide, for maintaining those files.

If you remember only one thing from this package, it is that those three items alone would send voters a message that transparency is a priority in our campaign and election processes. The three go hand-in-hand towards increasing accessibility. Without all three of those provisions, this legislation would be incomplete. We would not ask voters to turn in an incomplete ballot, and by the same token, we should not produce incomplete legislation, especially when it is legislation that directly impacts the effectiveness of their ballots.

With me today is Nicole Lamboley, Chief Deputy Secretary of State. To my right is Scott Gilles, our newly appointed Elections Deputy. In the audience is Ryan High, the Help America Vote Act (HAVA) Administrator; Kate Thomas, our Deputy for Operations; and Pam duPré, our Public Information Officer.

I want to start by saying that the proposed legislation is the result of our experience in elections plus a great deal of thought and research regarding the issues addressed. It is not hyperbole to say that the integrity of our election system relies on transparency and accessibility. Ultimately, ensuring and maintaining that integrity is our highest goal, as it should be for all of us who serve. It is the foundation of the democratic system that allows our service. Without public confidence in that integrity, participation decreases and democracy becomes less effective. And so it is our intent to develop legislation that transcends any partisan concerns.

It is also important to note that Nevada is increasingly assuming the role of a battleground state in elections. Consequently, there is national attention on our state and our elections process. Our population swells every election cycle with the influx of elections attorneys.

Assembly Bill 81 and Assembly Bill 82 are presented as two separate pieces of legislation. Assembly Bill 82 was passed by both houses during the last legislative session, but ultimately did not make it to the Governor's desk. Assembly Bill 81 contains additional provisions that we have since developed in response to our ongoing elections experiences. The two bills are a result of lessons learned from the 2008 and 2010 elections.

In the broad overview, the policy changes we are looking to make with both bills cover the areas of increased campaign transparency and finance reform, express advocacy and disclosure requirements, online voter registration, and the formation and reporting rules on political action committees (PACs). It is our belief that the proposed changes in these areas will provide Nevadans with immeasurably more transparency and accessibility in the campaign and elections process.

A big part of the transparency is letting voters know who is funding the campaigns. The reasons, of course, are obvious and the need is equally obvious—even to those outside Nevada. The Campaign Disclosure Project—a collaboration of the UCLA School of Law, the Center for Governmental Studies, the California Voter Foundation, and supported by the Pew Charitable Trust—gave Nevada an F in 2008 for the state's campaign disclosure law, electronic filing program, and report accessibility. That is the same grade Nevada received in the Project's previous four reports. In the real world there is a term for that—it is called flunking out. I am not going to flunk out, and I do not think any of you here want to. There is absolutely no reason that Nevada should tolerate any excuses for that kind of performance. The single most important thing we can do in terms of election reform is to make the information publicly available in a real-time manner and in an easy-to-access format.

The simple truth is that, under our current laws, a candidate could file a 200-page handwritten finance and expenditure report and mail it from anywhere in the country with a postmark that meets the deadline. My office then receives it days later and has to scan it and get it online. That is not timely, and 60 percent of the public has already cast ballots through early voting. In addition, scanned information is not always the most successful for public dissemination. It is not fair to expect members of the public to sift through hundreds of pages of Portable Document Format (PDF) documents to determine who is financing certain campaigns and whether that information will have an impact on how they vote. This legislation would move us to instant online filing of campaign contribution and expenditure (C&E) reports. The changes we propose would also change reporting deadlines so that the public would receive additional and updated reports by the Friday before elections. The new deadlines in our legislation would require a report four days prior to the start of

early voting and four days prior to Election Day for both the primary and general elections.

The proposed legislation will affect candidates, PACs, independent expenditures, recall committees, and legal defense funds. Mandating electronic filing of C&E reports will generate public access to information about who is funding the candidates' campaigns. The public would be able to query contribution and expenditure information by name, address, and dollar amounts in a searchable and user-friendly database.

**Assemblyman Hickey:**

Mr. Secretary, with reports due four days before early voting and four days before both the primary and general elections, are candidates now responsible for filing three reports to your office? It may be challenging to file in a timely manner during the heat of a campaign. Obviously, we are going to be in trouble if we do not file, but have you thought about the logistics?

**Ross Miller:**

We have thought about the logistics. The bottom line is that there are four contribution and expense reports that would be due during that period. Filing anything less would clearly not lead to Nevada earning better than an F. Putting these provisions in place might not earn us a spot on the campaign-finance honor roll, but it will at least earn us a passing grade. The threshold question becomes whether you are willing to file an additional report to give the public access to the information they need. I understand that candidates are often strained for time, especially toward the end of the election. It certainly would not be easy to file a contribution report days before the election, but somehow those candidates are able to raise money, collect the checks, endorse and deposit the checks, and spend the money. To tell us that you could not, in turn, file that information electronically and post it on our website so the public has access to it does not pass the straight-faced test. If we want to move from an F to a passing grade, are you willing to take the additional step to file that additional report? I believe the public clearly deserves to have access to that information.

**Assemblyman Hickey:**

Sometimes offices, even having received checks, do not get them cashed in time. Is there any potential penalty? Say a check was signed and sent prior to the cutoff date—of course it would be reported subsequently—but are candidates going to be held to a strict standard in terms of when the check was signed and when it was reported?

**Ross Miller:**

Current law requires you to report the acceptance of the check on the date you matriculate it, so it is not the date on the check nor when the candidate's campaign receives the check. It is the date on which you actually matriculate the check. It is a *de minimus* requirement that you also be able to report that to our office so that we have a basic level of transparency.

Merely mandating electronic filing alone will not earn us a spot on the campaign finance honor roll, but it would take Nevada from an F to a passing grade when it comes to our election disclosure law. This change is the single most important aspect of our proposed legislation, and it is a necessary step to improving Nevada's election disclosure performance.

There will also be a requirement for candidates and appointed officials to file financial disclosure statements with my office. If we are going to have electronic filing, the only way it makes sense is to have the Secretary of State be the sole filing office for virtually every race. Rather than the public trying to chase down information on municipal and county elections and candidates at various sites, a centralized approach to storing the information and for disseminating it is the only efficient way to serve the public's right to know. Imagine the public's response if we made this simple but substantive change—electronic reports filed in a single location prior to when the public votes. No excuses. It would lead to uncompromising integrity and the public's faith in the electoral process. You will decide during this Legislature whether Nevada will continue to fail in campaign finance transparency, but I personally believe it is clear that the voters deserve better from us.

In addition to campaign finance, we are also including legislation to regulate third-party groups to address the lack of transparency of PACs and other forms of express advocacy. There is a provision to require a disclaimer on every advertisement in excess of \$100 made on behalf of or in opposition to a candidate, identifying the person or group that paid for the advertisement. If it is approved by the candidate, the advertisement must additionally so state, and further disclose the address, telephone number, and Internet address of the person or group that paid for the advertisement.

You have heard me make a reference to ballot advocacy groups (BAGs). This proposed legislation, as currently written, will eliminate BAGs and give them the same status as PACs. I believe having separate categories is redundant and causes unnecessary confusion. In 2007, when this language was added to the statute, it generated a number of calls to my office asking questions about who constituted a BAG and what a person could say before having to register with the Secretary of State's Office.

**Assemblyman Grady:**

In regard to campaign reporting, what provisions do you have for city elections that are not held when the primary or general elections are being held?

**Ross Miller:**

Those reports would also be filed with our office. Part of the problem and confusion arises from the fact that no one, even the candidates, is certain where to file those reports. During this last municipal race, a number of candidates filed their reports with our office even though they were clearly supposed to file them with the various clerks. We transmit those reports to the county clerks, but sometimes they are lost in the mail. When they are filed with a local governmental entity, there can be a delay which, obviously, decreases the level of transparency because it takes longer for those to be posted on the Internet. Also, the public is not sure where to look for these reports, so we are constantly reminding the media and members of the public that, despite the fact we do not have a report filed on our website, they would have to go to the municipal or county offices to find that report. If we are able to mandate electronic filing, we clearly would be able to maintain this as one centralized repository for all these reports so the public would have access to reports for all candidates throughout the state.

**Assemblyman Grady:**

I am not as concerned with where the reports are filed as the dates the reports are due. When are the reports due for municipal candidates not on a November election ballot? Will they file their reports four days before the election for their offices?

**Ross Miller:**

The same dates would apply to municipal candidates, so they would have to file their reports four days before the start of early voting and four days prior to the election, just as every other candidate would.

In 2007, when the ballot advocacy group language was added to the statutes, it generated a number of calls to my office asking questions concerning who constituted a BAG and what a person could say before having to register with the Secretary of State's Office. Because of those complaints we conferred with the Attorney General's Office, and we propose to the Committee that BAGs would file as PACs under the same rules and on the same reporting schedule. The reporting requirements would be tied to the money contributions they receive. Following the last election cycle, we think it is probably best from a legal standpoint to have BAGs report as PACs and simply include language in the statutes concerning PACs that an individual person may be required to

report if he receives money for a question that appears on the ballot. We are looking to make information accessible.

We want to enhance the opportunity to register and vote, while at the same time increasing the security and integrity of the registration process. To that end, our pilot program for online voter registration worked very well in the 2010 election. We are only the ninth state in the country to use this system, and you can see that there was no appreciable difference in the percentage of Republican versus Democrat voters registering online during the pilot program in Clark County. That is in spite of the fact that the area has a significantly greater number of Democrats. The results should dispel any concerns about the online system favoring one party over the other, which was clearly a concern last legislative session. This is an opportunity to address both accessibility and security. The online system requires immediate verification of the registrant and his or her address through either a Nevada driver's license or identification (ID) card. The online system immediately corrects errors during the registration process. These are the kinds of errors that can trigger a back-and-forth series of letters between registrants and clerks that can go on for weeks or more before being sorted out.

The proposed legislation also requires organizers of voter registration drives to register with my office and to receive training on relevant Nevada law before registering voters. This provision will be applicable to anyone requesting 50 or more registration forms. It is also worth noting that in many cases, the person receiving the training will be required to provide the same training and information to colleagues. As you probably know, much of this section grew out of our experience during the 2008 election run-up, during which there were issues concerning how voter registration drives were conducted, the manner in which people were being registered to vote, and the unfortunate circumstances in which people believed they were registered to vote but were not in fact registered to vote and ultimately could not participate in the 2008 election. Our successful investigation of the Association of Community Organizations for Reform Now's (ACORN) voter registration drive was one of those examples of national attention I mentioned earlier. I was proud of our ability to put a stop to the attempts to fraudulently register voters before any of those forms actually made it into the system.

There are also provisions for increased penalties for voter registration violations. A voter registration agency that knowingly employs a person who has been convicted of a felony involving theft, fraud, or dishonesty would face a fine of up to \$5,000 for each such employee. Clerks are also prohibited from appointing any field registrar who has been convicted of a similar felony. We are also increasing penalties for a variety of election offenses in this



legislation. Assembly Bill 82 deals with unlawful acts and penalties and is based upon attempted abuses that arose out of the 2008 election cycle. I believe there needs to be more "meat" behind the penalties involved with this type of conduct. In 2010, we were inundated with phone calls about distrust, questioning the integrity of the electronic voting machines. It is my belief that this type of tampering is a direct assault on the democratic process and a direct attempt to undermine the electoral process. This bill increases the penalties to deter that type of activity.

The filing fee changes in this legislation reflect the fact that the amount we are charging does not begin to cover the administrative costs involved with the filings. This is largely the result of the fact that the filing fees have not been increased in 20 years. We are looking to raise filing fees in order to defray the cost of processing and maintaining all the necessary information for each candidate. I do not think anyone who is really committed to running for public service will have a great deal of heartburn over this, and I would suggest that we have not set the fees to levels that would preclude any serious candidate from filing.

This is an extensive and ambitious piece of legislation, but it is extremely important. I cannot emphasize enough the impact these laws will have on maintaining the integrity of our election system and the resulting increased confidence, and therefore increased participation, of Nevadans. They deserve the very best we can give them, and that is what my office is trying to provide in this legislation. We have heard the oft-repeated definition of insanity—doing the same thing over and over and getting the same negative result. Sadly, that seems to apply to Nevada's campaign finance laws. We can change that with the passage of just three key elements in this legislation—electronic filing, more relevant deadlines, and my office as the single custodian of records for campaign information. It is time to break the pattern of repeated errors and do things differently and, as a result, get the positive results that Nevada voters deserve. We are also proposing amendments [([Exhibit D](#)) and ([Exhibit E](#))] which have been distributed to the Committee. I would be happy to answer any questions about any of the amendments or the bills.

**Assemblywoman Flores:**

My question has to do with voter registration organizations requesting more than 50 applications—would there be a fee associated with registering with the Secretary of State in order to receive those applications? If there is a fee, is any of it associated with the subsequent training that has to occur once a person registers to receive more than 50 applications?

**Ross Miller:**

There is no fee associated with getting the registration forms. The clerks, by statute, can charge a fee for distributing a certain number of forms, as they have in limited instances. During presidential campaigns, for example, some requests were made for hundreds of thousands of forms. The clerks, to defray those costs, had to charge for the forms. That does not have anything to do with the training or the additional provisions that we put into this proposed legislation.

**Assemblywoman Flores:**

My concern involves nonprofit voter registration organizations whose sole purpose is voter registration. What would that do in terms of creating obstacles or barriers for these organizations solely dedicated to getting people registered?

**Ross Miller:**

I do not see it as posing much of a barrier. I understand that there are concerns. Certainly, there are legitimate third-party groups that want to engage in voter registration drives. That is part of the democratic process and we want to encourage this. This legislation would require only that those groups receive some type of training, and mainly in an online form. This language was adopted almost entirely based on legislation currently in place in Colorado. You receive online training and then you, in turn, can train any other members in the organization concerning statutes that are applicable to voter registration drives. The reason for this proposed legislation is based almost entirely on the voter registration abuse we saw in the 2008 election and in previous cycles. We clearly saw some third-party groups attempt to skirt the law and submit fraudulent forms, which put an overwhelming burden on the system and also led to distrust by the public in our ability to carry out the integrity of the election.

**Assemblywoman Flores:**

My second issue concerns election fines. I understand that there is a concern about voter fraud and elections violations when, in reality, there are not a lot of documented cases of someone trying to commit voter fraud or someone actually tampering or attempting to tamper with equipment. Have there been any instances in which you have pursued these violations? You are proposing an increase in the fines, is that correct? Have there actually been any cases you pursued?

**Ross Miller:**

Yes. During both election cycles while I have been in office, we have initiated criminal or civil investigations relating to election law abuses. Obviously, in the 2008 cycle the most notable example was the ACORN case, in which we

executed a raid on their headquarters in response to some pretty substantial election law violations. We filed 39 felony counts with respect to those violations charging ACORN criminally as an organization, their regional field director, and their local field director. We obtained convictions of both field directors in that case. We are still proceeding to trial against ACORN. I think increasing the penalties in many of these instances would have a significant effect in deterring that type of activity.

We also have a number of open investigations from the 2010 campaign that I cannot discuss. The bottom line when making a case for increasing these penalties is that, often, these are gross misdemeanor offenses or civil penalties. In the criminal justice system, that minimal level of enforcement often does not even justify opening an investigation. As a former criminal prosecutor, I believe very strongly that increasing the penalties would deter that type of activity in the first place. When you look at something as serious as tampering with voting machines with the intent to affect the outcome of an election—if someone is going to come to Nevada and try to rig the presidential race, that ought to be a pretty serious offense. Currently, it is a category D felony; we would increase that to a category E felony.

**Assemblyman Hickey:**

Where in the bill are the additional filing fees located, or could you give us an example?

**Ross Miller:**

It is in A.B. 81, section 20. Filing to run for U.S. Senate currently costs \$500 and this legislation would increase that to \$3,000. The fee to file for a House seat would move from \$300 to \$2,000; filing for Governor would go from \$300 to \$2,000; filing to run for most other state offices would move from \$200 to \$1,500; and so on. These filing fees are more or less the average amount when we surveyed other states, and quite a bit lower than many comparative states. California ties the filing fee to the salary for its elected officials. As I stated, these fees have not been increased in 20 years, so it only makes sense to try to increase them at this time. For those people who cannot meet the filing fee, there is a provision that allows them to seek signatures instead to qualify as a candidate.

**Assemblyman Hardy:**

I have some concerns about the committees for political action in section 54 of A.B. 82. During my candidacy, a number of individuals from a family gave me small contributions. Would these people have to register as a political action committee? Am I reading that wrong? You stated that everyone in a political action committee has to file and report to the Secretary of State. The forms

must "be signed by a representative of the committee for political action under penalty . . . ." How small or large does that group have to get? If the contribution was over \$100 and a family group made the donation, would they qualify as a PAC?

**Ross Miller:**

Individual contributions are subject to the requirement that any contribution to an individual candidate would have to be reported, so long as that contribution was in excess of \$100. This lowers the threshold requirement for contributions that would have to be reported by PACs and adds additional disclosure for those third-party groups. Many third-party groups entered Nevada during the 2010 election and advertised heavily without reporting the activity or where the money was coming from. This language cleans up a lot of that area in the statutes and adds basic levels of disclosure and requires that they file regular reports.

**Assemblyman Hardy:**

Also in this same section it mentions anyone sending over 100 emails would have to register as a political action committee.

**Ross Miller:**

In A.B. 81, section 37 deals with independent expenditures. This provision is borrowed entirely from federal statutes currently in place. Part of that provision requires disclosures if the person, political action committee, political party, or committee sponsored by a political party has an internet website available for viewing by the general public, or sends out an electronic mailing to more than 500 people. This would require basic levels of disclosure for these communications from third-party groups that oftentimes do not identify who is financing them or who is responsible for the content of that ad.

**Chair Segerblom:**

To clarify, all you have to do on that email is say who you are. They would not have to register with you, would they?

**Ross Miller:**

No, they would not have to register with us, but it would entail a provision that they have to disclose who they are, the street address, the telephone number, and internet address. If it has been specifically authorized by a candidate, then they would also have to make further disclosures in that way.

**Chair Segerblom:**

So, if the Sierra Club emailed its membership and stated support for a particular U.S. Senate candidate, as long as that information was on that email they would be covered?

**Ross Miller:**

Correct.

**Assemblywoman Smith:**

We have talked to your office about the online filing of campaign contributions and expenses and about expanding those opportunities. For example, I like to put more detail on the expense reports than the box allows for, which is the reason I did not use the online system this time. If you are going to require everyone to use that form, might you consider expanding the opportunities for comment?

**Ross Miller:**

If this legislation goes through, I can assure you that we will invite all stakeholders to the table to try to build a system people would be happy with. We have a limited online filing program currently available. It is probably not as robust as it should be because we have not devoted a lot of information technology (IT) resources to it. About a third of the candidates take advantage of it; two-thirds of the candidates file paper-based reports, and possibly for the reasons you are suggesting. So, if this legislation passes, we certainly will spend the resources in order to enhance the system.

**Assemblywoman Smith:**

I will probably never make it to a working group meeting, so I would like to say that the forms need to allow for more information. Instead of utilizing just one code, you need to have multiple codes. You need to be able to put in a comment if you want to explain something in a little more detail. You need to be able to input multiple dates instead of just one date for vendors. It would be a lot easier for the public to view if you could have everything in one place, and it would give them more information when they look at the reports.

**Chair Segerblom:**

Does changing the form so a candidate could report exactly how much money is on hand require a change in law?

**Ross Miller:**

It would require a change in law. We are currently prohibited from collecting that information on our form, as we are also prohibited from collecting information on expenditures and contributions under \$100. I would support any

of those provisions if the Legislature wanted to put additional provisions in place that would lead to transparency, but I have learned that the more provisions we try to tack on to legislation, the greater opposition that brings. It is like the adage that perfection becomes the enemy of achievement.

As I said, one of the most important provisions is mandating electronic filing. With electronic filing in place, we would be able to build calculators and the like that would assist the public. It probably would not give them an accurate total, but it would be in the ballpark.

**Chair Segerblom:**

To reiterate for the Committee, A.B. 82 is what passed both houses last session. What was the genesis of A.B. 81?

**Ross Miller:**

Assembly Bill 81 includes provisions of lessons learned from the 2008 and 2010 elections along with a lot of provisions that we stripped out as part of compromises in Assembly Bill No. 82 of the 75th Session.

**Assemblywoman Flores:**

I have another follow-up to my first line of questioning. I am really concerned about the burden on some voter registration organizations. Has there been any dialogue between your office and any of those organizations?

**Ross Miller:**

Yes. This is not a new provision. We put this in place last session and had extensive hearings to work out some of the details. As I said, the language is borrowed entirely from the State of Colorado, where they successfully implemented it.

With the advent of electronic voter registration, I would anticipate that we will see fewer third-party groups wanting to deal with handwritten forms. I think we will see more of a push that drives people toward the online filing program. In Arizona, the online filing program accounts for about 75 to 80 percent of all their registrations. It is the easiest way to do it and the least burdensome on the clerks who have to input that information. Certainly, in this day and age, it is easier to drive people to that website than it is to contact them at the Department of Motor Vehicles or at a supermarket.

As an aside, we have provided members of the Committee with a matrix for each bill detailing individual provisions [([Exhibit F](#)) and ([Exhibit G](#))] and what they attempt to do. We can provide further assistance if needed.

**Chair Segerblom:**

Who else wants to testify in support of this bill?

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

As to the areas that affect the counties, Clark County supports A.B. 81, specifically the provisions to do with electronic filing. Right now, the 300 to 400 candidates contained within Clark County file with us, and this requires our personnel to accept these forms, scan them, and post them on the Internet. It is a manpower burden that could be eliminated if we did go to electronic filing, so I support A.B. 81 both for that reason and also for the reasons the Secretary of State stated.

We went through this bill at a generalized level and I want to point out a couple of places in the bill I am proposing be amended ([Exhibit H](#)). There is a very minor item on page 17, in section 22, but it needs to be clarified. On lines 8, 9, and 10, the order on the ballots has been changed so that the Justices of the Supreme Court are placed with the Governor, Lieutenant Governor, and some other partisan offices. Now you are intermixing partisan and nonpartisan candidates, and in *Nevada Revised Statutes* (NRS) 293.265 we are required to keep them separate in primary elections. We are to list all Republican candidates separately, to list all the Democrat candidates separately, and then to list the nonpartisans. If you want to change the order of candidates, we are going to need some further guidance, and changes must be made to the NRS section that gives conflicting directions.

Moving to section 27, on page 20, line 38, there is a change being made to the way we do recounts. It would give the candidate requesting the recount the option to request that all absent ballots cast in the election be recounted. That is a huge change to the manner in which we do it now, which is by statistical sampling. The candidates are allowed to pick 5 percent of the precincts, and we do a statistical sampling throughout the state or throughout the county, depending on the situation. Depending on the results of that sampling we either do a 100 percent hand count or a 100 percent machine count. Yesterday, the Secretary of State discussed adding an amendment to address that issue, but I do not know if you have one.

**Chair Segerblom:**

Committee members are nodding their heads that they do.

**Larry Lomax:**

If they have the amendment, we can pursue this later, because I am not sure what the Secretary of State's amendment says. Perhaps that problem has already been worked out.

Other than that, I have no other issues to talk about. We support the rest of the areas that the Secretary of State discussed.

**Chair Segerblom:**

Are there any questions for Mr. Lomax? [There was no response.]

Is there anyone else who wants to testify in favor?

**Barry Smith, Executive Director, Nevada Press Association:**

I am speaking in favor of both bills on the transparency issues. The proposed changes would make great strides toward helping Nevada improve its standing, and the importance of that is the information to the voters, as was well stated by the Secretary.

We just wanted to point out a couple of practical considerations. The way it works now, coverage of C&E reports by the newspapers attracts quite a bit of attention, but under the current deadlines and with mail sometimes arriving late, several stories did not appear until three days before the election. As was pointed out, most everyone had voted by then. For weekly newspapers, the deadline for campaign contribution and expense reports being a week before the election, they have a hard time getting any information published. Because of the difficulty of actually examining these reports, it is hard to do anything in depth as to what is going on, yet this information is of interest to voters.

**Jan Gilbert, representing the Progressive Leadership Alliance of Nevada:**

I also want to support the disclosure piece of this legislation. When the public goes to early vote, they need to have all the information. With all the ads and mailings nowadays, many people are very confused when they go to vote; so from our perspective, the more information they have about who gives campaign contributions the better. This legislation will clean that up.

I also have concerns about the nonprofits that will have more stringent requirements concerning registering people to vote. My organization does register people to vote, and we are concerned. Most of the time we use volunteers, so monitoring the volunteers might be difficult. If one person does the filing or if we get over 50 forms, I have a concern because the penalties seem to be quite harsh. Looking at the amendments, I have been unable to determine if the penalties are being made lighter or not. Because one group had a problem does not mean you throw everything out. We have done a good job of registering people in disadvantaged communities, and we feel we should not be penalized just because a group had some problems with some of their paid volunteers.



Overall, the transparency is very important to us, so I would like to be certain we get some of this legislation passed. It is a little overwhelming to read all of it and try to figure out if all of it is going to benefit the public, but I do think the disclosure and changing those dates would be good.

**Chair Segerblom:**

Is there anyone else in favor of the bill? I do not see anyone. Now we will hear from people who are opposed to the bill.

**Lynn Chapman, Washoe County Chairman, Independent American Party, and representing Nevada Families:**

I have problems with both of these bills. We put our *Nevada Families Voter Guide* on the Nevada Electronic Legislative Information System (NELIS) ([Exhibit I](#)), and in A.B. 81 on page 24, in section 36, it states:

"Advocates expressly" or "expressly advocates" means that a communication, taken as a whole, is susceptible to no other reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate or group . . . .

We publish a voter guide before every election and have for many years. Candidates and others advertise in the guide; in fact, last year four parties advertised in our voter guide. We ask questions of the candidates and publish their answers. We also publish various articles. If you look through the guide, you can see what it contains. We think we would fall under this provision. On page 8 of our voter guide, our policy statement says:

The non-profit *Nevada Families Voter Guide* is the September 2010, Newsletter of Nevada Families Eagle Forum. *Nevada Families Voter Guide* is non-partisan and nothing in it should be construed to endorse any candidate . . . . The *Nevada Families Voter Guide* is published by Nevada Families Eagle Forum. It has been published every general election year since 1988, and the monthly Nevada Families Eagle Forum Newsletter has been continuously published since 1974. Jeanine Hansen is the editor. The *Nevada Families Voter Guide* is published under the authority of our unalienable God-given Rights as guaranteed in the U.S. Constitution First Amendment Rights of Freedom of Religion, Speech, Press, Petition and Association, and the Nevada Constitution Article I, Sections 1, 4, 9, 10.

We do not know if this legislation applies to us, and we are quite concerned.

**Chair Segerblom:**

Do you support candidates?

**Lynn Chapman:**

No, I do not.

**Chair Segerblom:**

So all the candidates for every office are listed on your voter guide?

**Lynn Chapman:**

Yes, they are all listed from all the different parties. Not everyone answers the questions. We send the questions to all candidates and they answer if they so choose, but we do print everyone's name.

**Chair Segerblom:**

As long as you are not advocating for one candidate in particular, this law should not apply.

**Lynn Chapman:**

We do have advertisements people pay for, and different parties participate.

**Chair Segerblom:**

But those advertisements say, "Paid for by . . . "?

**Lynn Chapman:**

Yes.

**Chair Segerblom:**

So, that is fine.

**Lynn Chapman:**

The fees people would have to pay to run for office are listed in A.B. 81 on page 15. This last election, I ran for a county office and had to pay \$100—that was one week's grocery money. Now it will almost cost me a month's worth of grocery money just to run for office. I realize the Secretary of State said we could gather signatures, but that is really time-consuming. I think this is a terrible way of doing things—raising the fees so much. It will be a hardship on people and especially for minor parties. We do not have money; we use our own. Last election, 54 of the candidates in our party ran for offices. Many were elderly and some were disabled. It would be very difficult for them to get signatures or pay higher filing fees. These new fees could kick us to the curb. Raising fees so high that the normal, average person cannot run for office is not a good idea.

I would also like to address section 4. Being the Washoe County Chairman for the Independent American Party, I encountered a number of people who had problems filing the campaign contribution paperwork. In the past, the paperwork said you had to report if you raised \$100 or more. Most of us do not raise money or spend much money on our campaigns. A number of people have been fined enormous amounts of money because they did not fill out the paperwork. The paperwork said to file if you raised or spent \$100. Because they raised zero dollars and spent zero dollars, they assumed they did not have to file. One lady now has a fine of \$67,000 and has filed for bankruptcy because of those fines and interest. Another man owes \$5,000-plus. Another man who has a family and five young children owes a \$65,000 fine. These are people who raised no money and spent no money. In one family, four members ran and the father has a \$20,000 fine, although I do not know about the rest of the family.

One man in Clark County keeps turning in all his paperwork. He has been told numerous times that he did not file and was going to be charged \$2,000 for the 2008 election and for the 2010 election because he has not filed his paperwork.

Another man ran for office for the first time in 2010. He is being told he is going to be fined \$2,000 for 2006, 2008, and 2010. He keeps telling them that he did not run in 2006 or 2008 and that he filed his paperwork for 2010. So there are some big problems.

I have a friend in Washoe County who wrote me an email. She had a \$15,000 fine and a lien against her house. The fine has been paid. It was a hardship, but they got it paid. Now she is being charged with attorney's fees and interest. I am going to read her email to you because it really hits home:

I just wanted you to know what is going on with my fines. They are garnishing my wages to pay the interest and attorney's fees even though my fine has been paid. The new fines are over \$11,000. They are taking \$750 a month from my income. We are struggling already and this is just another added burden. Our car has been broken down since July and we have been getting rides from everyone. This has ruined our credit and we can't borrow. I am depressed and do not know if I can take a year of this.

That is what has been happening and I would like to know how many other people from other political parties had the same problem. None, I think. This is why I am really upset with these bills. I do not think they are good and I wish you would vote "no" on these bills.

**Janine Hansen, President, Nevada Eagle Forum, and National Committeewoman, Independent American Party:**

For many years my father taught classes teaching teachers how to teach. He encouraged them to use visual aids, so I brought mine today. [Ms. Hansen showed a pair of handcuffs to the Committee.] Under this bill I will be a virtual felon, because a \$15,000 fine has been levied against me. When I ran in 2006, I filed all my paperwork on time. I spent no money. I received no notice after the first filing deadline or after the second filing deadline or after the third filing deadline that I had violated any law. I had crossed out "Under Penalty of Perjury" and written, as I did with the copy on NELIS ([Exhibit J](#)), "I file under protest and swear in the name of Jesus Christ that the foregoing is true and correct." Because I wrote that statement on the form, in May 2007 I was notified that I was being fined \$15,000 without ever having had an opportunity to respond.

I wrote an extensive letter of explanation and asked for a waiver. Secretary of State Ross Miller denied my waiver and determined I deserved a \$15,000 fine for exercising my right to religion. Last session I requested an amendment, which I have requested for A.B. 82, that would provide candidates filing for office the same opportunity to swear a religious oath as all of you have when you swear to uphold the *Nevada Constitution*. The Secretary of State's Office opposed that until the State Senate actually passed that amendment. I am requesting that amendment again so people like me are not denied their religious right.

Under this bill, I am a virtual felon because I have not paid my \$15,000 fine and I will not pay my \$15,000 fine. During the election, I released a report that said, "I wear this fine as a badge of honor because I am fighting for religious liberty for myself and others." I do not think these laws were put on the books for this purpose. They do not make for better elections or participation, nor do they make the election process more honest. This is a ridiculous enforcement of these laws that does not improve the law, but it does suppress participation. I think that is precisely what this entire bill does—suppress participation—when it makes people like me virtual felons. The only people who cannot run for office are felons, so that makes me a virtual felon.

I thought it was interesting that the Secretary of State had the audacity to say that the new filing fees on page 15 will preclude any candidate who is not serious from filing. This last election our party had 54 candidates, 4 of whom were elected. Jackie Berg, Clerk/Treasurer of Eureka County, was reelected this election as an Independent American. She said several people had come to her and said, "We saw that the Independent American Party had candidates for United States Senate and all the statewide offices and that you are an

Independent American as well. Because you had a full slate of people running for office, we are really encouraged and we are going to join your party."

Now, it is not reasonable for our statewide candidates to believe, at this point in time, that they could be elected to statewide office, but it is reasonable to believe that this helps support our platform and our other candidates—including the four elected this past November. That was the most candidates we ever had either running or elected.

In some cases, these are 600 percent increases in filing fees. Do you want to shut down our elections so that minor party candidates, independent candidates, people who are not rich, powerful, or incumbents are not allowed to participate in the process? That is precisely what this particular piece of legislation does—it shuts down the process.

We had many candidates willing to run and actively campaigning, but they could not initially even afford their filing fees, so we helped them with those fees. We are not a rich, powerful political party, but we are growing in influence and now have over 60,000 registered voters. This essentially discriminates against those who are not the chosen in the State of Nevada and who may have alternative views.

Probably the most notable Founding Fathers who were in a dirty campaign were Thomas Jefferson and John Adams, and of course they did not have to report their campaigning to the Secretary of State. In the long run, free speech prevailed and those campaigns brought us more liberty.

It is burdensome to have two more reports to file, and I am one who files handwritten reports because I want to include that I sign the reports under protest. Assemblywoman Smith wanted to include notes on her filing, as did I, and is another reason why I oppose electronic filing.

I would like to bring up two issues concerning A.B. 82. One involves the changing of BAGs to political action committees. We worked very hard to change the law so that committees for ballot questions would not have to report for every person who donated only \$100. If you remember the discussion, in California, during one of the proposition campaigns, people donating as little as \$100 to that ballot campaign were targeted by those who obtained their addresses online. They were persecuted and harassed, and many had to get bodyguards. This body saw fit to raise that to \$1,000 so people would not be intimidated when they gave money to a ballot campaign that might not be politically correct. People would be able to participate in a small way and not be targeted and harassed and persecuted as happened in

California. In 2004 when we had the "Ax the Tax" campaign, a businessman donated money to the campaign. After it was reported by the Secretary of State, he lost all his contracts with the casinos because they opposed Ax the Tax. These kinds of things can happen. They can also happen in political campaigns. I ran for the Assembly during this last election, and a person who wanted to give me a considerable amount of money asked what the reporting requirements were. I answered that the threshold was \$100 and the donor said he could give me only \$100 because he was concerned about incumbents and others hurting his business if he donated any more. These laws suppress participation for challengers and third parties because people are intimidated and afraid to give money to us because they may then not be viewed favorably by those who get elected.

These are election suppression laws being promoted by the Secretary of State, and they discourage people from participating. I have put several additional documents on NELIS, so my complete concerns are there for you to read.

One thing I like about A.B. 82 is in section 28 on page 27. We requested this change that adds the word "intimidation" on line 40. The language reads that a person cannot "Use or threaten to use any force, intimidation, coercion, violence" on people during voter registration drives, petition drives, or elections. The public should not be kept from participation in the process because of intimidation. Violation of this statute would now be a category E felony. That is a little scary to me because those are huge penalties. I submitted an amendment ([Exhibit K](#)) that would allow for a private cause of action if someone actually intimidated people trying to register voters or get a petition signed.

**Assemblywoman Smith:**

I want to clarify the differences between your situation and what Mrs. Chapman related concerning filing of campaign contribution and expense forms. You filed your contribution forms, but you changed the signature information. I believe the other comment I heard was that the form should not have to be filed. Did I hear that correctly, and what is your take on that? If I am a voter, I do not know that you did not spend \$100 unless I can see the form.

**Janine Hansen:**

I forgot to ask the Secretary of State for a list of everyone who owed penalties and what those penalties were, and I believe that information would be relevant. The fines Mrs. Chapman was speaking of are from 2002. The law has since been changed and clarified. At the time the language revolved around a person spending \$100, and it was interpreted that the individual did not have to file. That was clarified later, but the individuals were fined. Most, ultimately, filed

the paperwork. My fine is from 2006, when I spent no money and received no contributions.

**Assemblywoman Smith:**

You accept the idea of filing even if the candidate did not spend any money; it is the signature piece you are referring to?

**Janine Hansen:**

Filing is the law. I have many constitutional objections to it, but we have complied. My fine was because I changed the language above the signature line. I have suggested an amendment that would accommodate that difference because more than one of our candidates had problems with that oath.

**Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of Nevada:**

I would like to state for the record that it is unfortunate and a disservice to the public that the Secretary of State did not walk the Committee through the bills section by section. These are very overwhelming bills, and I am not sure how many of you have had the opportunity to read through these line by line.

We have several concerns with Assembly Bill 81, beginning with section 4, which ties the ability to run for office to the payment of civil fines involving election laws. We understand the Secretary of State's intent but do not see the nexus between the two. Further, a person who is subject to civil fines may not have any idea that these civil fines will impede their ability to run for elective office. Given the indigency status some people find themselves in given the current state of affairs, or in general, we think it is an unfortunate burden to be placing on people who otherwise have no criminal conviction. I echo Jeanine Hansen's sentiment. As of right now, the people who are prohibited from running for elected offices are those who have been convicted of crimes and not those who owe a monetary debt in any circumstance.

Section 7 involves the establishment of initiative petition districts. I would like to note for the record that the American Civil Liberties Union (ACLU) has twice litigated cases revolving around petition districts. As drafted we do not have a particular concern with this, but would caution the Committee to refrain from amending this in any other fashion because it is ripe for litigation. We want to be certain that the one person, one vote standard stays as currently drafted in this bill.

Section 19 changes NRS 293.184, specifically the "knowingly and willfully" language to one that specifies if the individual "willfully files a declaration of candidacy or acceptance of candidacy knowing that the declaration of

candidacy or acceptance of candidacy contains a false statement." This raises several issues. First, I want to note that during the 2010 election there was some litigation revolving around this statute, and the Nevada Supreme Court remains silent on whether or not any private right of action to challenge the veracity of a candidate's statement was allowable. If it is the legislative intent to clarify, we think that would be helpful in preventing future litigation. Moreover, the statute should actually specify that the false statement in question needs to be about something material. Some of the issues brought up in the litigation in the 2010 election cycle revolved back to that and whether something was material or not. From our perspective, and from the Supreme Court's perspective, when the Legislature has not specified a hard rule about material issues, election laws are supposed to be construed based on substantial compliance. Without addressing that, a loophole or open question then remains regarding that issue.

Section 37 is also problematic. In the 1994 case of *American Civil Liberties Union of Nev. v. Heller*, 378 F.3d 979, (9th Cir. 2004), the Ninth Circuit Court struck down Nevada's ban on anonymous political fliers. From our perspective, section 37 therefore attempts to renew that kind of discredited approach. A person or group of people unaffiliated with any candidate or party is constitutionally permitted to support, or oppose, any political candidate and to support, or oppose, any initiative proposition, and do so anonymously. For the record, that case citation is *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995).

Section 38 of A.B. 81 is also a concern in that there are many different types of groups that endorse various candidates, and publicize their points of view, and who are absolutely unaffiliated with the candidate in question. From our perspective, those groups or individuals should not be part of campaign finance laws or reporting mechanisms since they are not actually affiliated.

There is a question from our perspective regarding the filing fees and indigency exceptions that are placed in this bill by the Secretary of State. We have not had much time to review surrounding case law, so I would like to ask permission from the Committee for our organization to come back with further statements in regard to this matter. While there is an indigency exception that is coupled with a requirement that those who are indigent collect additional signatures, someone who has money is not required to do that, which could be problematic.

As for A.B. 82, section 3, subsection 2(c) allows for the hiring of people to collect registrations, but these individuals cannot be paid per completed signature. We understand the Secretary of State's intent in minimizing the



incentive for voter registration fraud or for allowing people to register "Mickey Mouse," for example. But there is a related, opposite problem that arises in this manner that would essentially prohibit an organization from putting reasonable performance standards into employment situations. For example, if a group is paying people by the hour to collect signatures, this legislation would prevent that group from telling its employees they must reasonably perform. Not only is that a bad business approach, but it also could result in a disincentive for the increased democratization of our elections. We think there should be some sort of threshold minimum standards that would avoid the fraud problems while not crippling the ability of the organization to reasonably collect voter registration forms.

In that same section, but at subsection 2(d), we think it is vague in its language prohibiting hiring anyone with a prior felony crime of fraud, theft, or dishonesty. What constitutes a crime of dishonesty is actually quite unclear and made more so if this statute is going to be construed to include any findings of dishonesty as originated in another state. There is no time frame for the prohibition; someone could have had a conviction, for example, 30 years ago, but still suffer prohibitions from participating in this manner in this clause as written. From our perspective, the conviction in question needs to be placed in a more reasonable time frame.

The same kind of problematic language reappears in section 21, subsection 3, and in section 22, and provides for a civil penalty for employing a person previously convicted of a felony crime of fraud, theft, or dishonesty.

We do support sections 24 and 25 that provide for computerized voter registration, because we think that it makes it easier for registration to occur and is likely to enfranchise certain voters who might not otherwise have the ability to go out and register, such as those individuals with disabilities.

Section 30 deletes voter polling from the definition of electioneering. There is a concern that exit polling occurring at the polling place might be disruptive and even intimidating. We understand that, but allowing such polling in a location that is close enough to the polling place but far enough away to avoid interference is probably a more preferable approach.

Finally, section 42 changes NRS 294A.007. The definition of "contribution" would be changed and would not include payment of compensation for the personal services of another person which are rendered to a "Person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot." This is interesting in that it removes the people who are not involved in

the campaign, but who are acting independently, from being treated as equivalent to people and organizations directly or indirectly linked to a campaign. However, the definition of committee for political action still includes such groups in the definition contained in NRS 294A.0055(1)(b), and their inclusion under various reporting provisions now existing and amended in this bill is still quite problematic from the First Amendment point of view.

Section 48, subsection 3, deals with a redefined threshold of reporting to \$100. This is the same kind of provision we testified on last session, insofar as we saw no reasonable nexus between the governmental interests of knowing what was going on and lowering it from \$1,000 to \$100. I am interested in hearing back from the Secretary of State on that.

I would like to note for the record, regarding A.B. 81, section 37, and the banning of anonymous speech that the *Federalist Papers* were not signed by the authors. If this law had been in place during that time, the authors of the *Federalist Papers* would have come under attack as a result of how this bill is drafted. Please keep that in mind as you consider the bill.

I also hope that, step-by-step, you take into consideration the penalty increases. We understand there is a direct need to protect elections, and we have seen that the criminal justice system is not necessarily responsive to the levels of crimes put forward in state law. A person does not look closely at penalties. He does not think, "Last year that behavior was a gross misdemeanor and this year it is a category E felony, so I will not engage in that behavior." People do not go through those kinds of rationales when deciding whether or not to commit a crime, so we hope you take that into consideration. When you are responding to the requests to increase penalties, we hope you will take into consideration the increased burden that will be on the State of Nevada's criminal justice system as a whole. You will hear me repeat this time and time again, and not just for election bills but for other bills that increase penalties. As these kinds of things are compounded, we begin to see the busting-at-the-seams criminal justice system we are currently dealing with.

**Bettye Gilmour, Private Citizen, Henderson, Nevada:**

I am a voter, a precinct captain, political activist, and, most importantly, a taxpayer. I have no union or lobby to represent my interest, so I am here today to self advocate and offer my opinions on A.B. 81. I did read both of the behemoth bills, and while there are many objectionable items in both bills, my testimony today will be limited to three points.

At about the time I am shocked at what my government does, I hear testimony like Ms. Hansen gave. This is the United States of America, and you are

imposing fines like that on people who are just trying to participate in the political process? I would feel so much better if you would be more zealous in trying to enforce laws against real criminals.

Section 20 of A.B. 81, as has been previously mentioned, greatly increases fees to file to run for office. As I stated, I am just a citizen. I do not represent any group or association; I am giving you my perspective as a citizen after reading these bills. It is an outrage to the democratic process. Mr. Secretary of State, it appears that you are trying to raise revenue for your office. It also appears that you want to eliminate minor party candidates and major party challengers from filing. These fees are prohibitive except to incumbents and very well-financed, anointed candidates.

Section 20, subsection 4, allows an affidavit to be filed if the candidate does not have the financial ability to pay, but that, again, places the Secretary of State in the position of determining who can run for office and is an insult to free elections. I am old enough to remember when the poll tax was 25 cents, and that was deemed to be illegal. This seems to be a little like that. I think it is illegal to be charging those kinds of fees. I also think it is an insulting and humiliating interference in the election process. The fees need to be kept reasonable and let democracy take its course without the heavy hand of the Secretary of State becoming our elections czar.

Section 27 of A.B. 81 exposes the disturbing fact that, with the electronic voting machines, no real recount is possible because only absent ballots cast by mail may be used in a recount. I think the people of Nevada would be outraged if they really knew that the paper printout next to the voting machine was just a meaningless fraud there to keep them pacified and quiet. I am opposed and object to both of these bills.

**Russell Best, Private Citizen, Lyon County, Nevada:**

I am a disabled American veteran. I ran for Congress last year as an Independent American Party candidate, but I did not win. I could not afford to pay \$3,000 or even \$2,000 to run. My campaign received only about \$2,500, but we brought in 11,000 votes for our party. This is ridiculous, and you should vote no. We also should be voting on machines that give a receipt and can be checked and audited.

**Thomas Cornell, representing the Libertarian Party of Nevada:**

We have no objection to electronic filing or deadlines. Those make sense and are convenient for everyone. I am opposed to what appears to be a power grab by the Secretary of State. I see no reason to centralize every election in this state under his office. The computers work just as fast in a county office or a

mayor's office. I also object to the increase in filing fees. The major parties have no problems with filing fees, but our candidates pay out of their own pockets.

From a layman's standpoint, it is obvious that the Secretary of State is looking to consolidate the power of his office. What really bothers me about this bill is the authority he or his office would have to go on witch hunts, to raise fees and penalties, and most importantly to intimidate the rank and file, the average person, the man on the street, from participating in the political arena.

As a Libertarian, I am a fan of Friedrich Hayek. Probably some of you know about his theories. He won the Nobel Prize and the Presidential Medal of Freedom, and he is one of the leading philosophers of the Libertarian Movement, which is an international movement. As Libertarians, we do not believe in the regulation of the economy. We believe in free markets, and we believe that same principle, our party's principle, should apply to all aspects of human activity.

One of our other philosophers, Ludwig Von Mises, another famous Austrian economist, wrote a treatise on economics titled *Human Action*. Concerned about the ability the Secretary of State is going to have to persecute grassroots groups, I sent out a message to our Facebook group today. Our Facebook group could legally be considered a political action committee. We have no money, no constitution, no bylaws, but we encourage our members to contact their legislators. We are now at the point of shutting down Facebook for a \$100 fee. It seems to be left to the discretion of the Secretary of State to decide who is breaking the law, who is a PAC, who is not, and who is spending money. The \$100 fee for communication could easily be a yard sign or a sign on your business. Is that something you have to report?

Under this legislation, the Secretary of State has the authority to regulate every single aspect of political activity in this state and register every political activist in this state. In Assembly Bill 81, section 37, the \$100 disclosure of communication will demobilize the volunteer groups, and that is all we have as a third group—volunteers. We do not get any money. I ran for the state Senate and received almost 6 percent of the vote. I hardly spent any money but it was all my money. Next time, I am going to get a lot more votes without spending the money the big candidates have to spend because the citizens want to get involved in the process when they can see someone like them involved.

The bills refer to people who "willfully" file false statements. Who is going to make these decisions? When you say someone willfully filed a false statement, is that determined by a judge? Has it gone through the courts for two or three

years, or is this a discretionary decision made by an administrative law judge, someone in the Secretary of State's Office, or someone in some other bureaucracy?

What was really interesting to me was to read in the legislation that if they determined that you willfully made a false statement, they are going to go to the polling place and put up a sign telling people not to vote for that person. That makes no sense. These are fishing expeditions; these are witch hunts empowered by the Secretary of State.

The Secretary of State, in addressing this Committee, claimed this legislation was necessary because he received an F from some special group. Well, he is elected, and you are elected. That should be enough. He said some group gave us an F and we are supposed to get an A, and that is reason enough for him to consolidate this power. I just sat next to someone who used to work for him who told me, "It is the law." I told him that this is how we make the law.

**Dan Hickey, Private Citizen, Clark County, Nevada:**

Thank you very much for taking the time to listen to some voters. I happen to be one, my wife is one, and so is the group of 15 in the room with us.

I would like to address my remarks to the Secretary of State. I understand that there are rules on the books relative to reporting, and I understand that you have tightened those rules so that you do not miss anyone and everything is done correctly. You have increased the fines because you are expanding your office and you need more money to spend. As I read it, every person or group of people is a group under your law. Is that correct? Presuming it is, I wonder how many reports you received from the different casinos that handed out lists to voters that specifically outlined the candidates the casinos recommended their employees vote for. I would also like to know how many fines you have levied against the labor unions—very active political action committees—for the amount of man-hours, cash, and donations they made to the election efforts of various very specific candidates.

I am very opposed to the place in the bill where the filing fees for candidates have been increased. By raising the fees, you are making it more difficult for the average citizen who you are sworn to serve. You are forming an aristocracy. George Washington was offered just that and turned it down. We elected you to do what is right for the State of Nevada.

**Rita Hickey, Private Citizen, Clark County, Nevada:**

I am not representing anyone; I am just a voter. I must agree with Ms. Hansen that these two bills will suppress participation and they are giving the

Secretary of State way too much power. It seems as though the established candidates have the means to hire someone to do all this paperwork. What about the grassroots candidates who are running on limited budgets with no money? I also do not agree with the increase in the filing fees.

I am a precinct captain; I go to my new neighbors and ask them to register to vote. Do you mean to tell me that now I have to take a training class with the Secretary of State's Office to register people to vote? They can go online using a computer and register to vote, but I have to go through training in order to have someone fill out a piece of paper. That is absurd.

I am very bothered by the repeated comments by the Secretary of State about the PACs. Not once did I hear unions mentioned. What he is trying to do is punish the PACs, and the unions get a free ride. I do not think that is right.

**John Wagner, State Chairman, Independent American Party:**

I am concerned about the vote by computer in case of fraud. There must be some way to get a signature so that they can verify it later. Also, electronic filing can be a hassle if it has to be done within a certain period of time. I am also bothered by the \$100. That applies to you, as well. Do I think any one of you would sell yourselves for \$100? I do not think so; I do not think you would do it for \$1,000 or even \$10,000. If you raised it to \$1,000, more people would participate. Many people are afraid to participate because, for instance, they do not want their boss to know they were supporting one person when the boss was supporting someone else. That is a problem.

Section 37 of A.B. 81 has to do with a political action committee, political party, and so forth. We have a website and we also send out electronic mailings to more than 500 people, so does that mean we have to file? All our people are volunteers.

Concerning those party members who got in trouble in the past, that occurred before I was party chairman or a member of the party. I had a meeting with Secretary Miller and someone from the Attorney General's Office last year, and I was told there was nothing that could be done to resolve the issue because it had happened before his time. I find it very unfortunate that the young lady Ms. Chapman mentioned has to go through bankruptcy all because of a misunderstanding.

As chairman of the party, I tell our executive director to send notices to all our candidates as to what the filing dates are. We did this three times during the last year. We tried to make sure that everything was done legally. As a party, we do not want to have anything to do with something illegal. A lot of times

things do fall through the cracks due to misunderstandings, and I wish there was something that could be done for those people who made the mistakes in 2002 and 2004.

**Alan Glover, Clerk/Recorder, Carson City:**

We signed in neutral on the bills; however, we have a couple of points to make. In A.B. 81, we are suggesting deletion of section 23 on pages 17 and 18, which is NRS 293.333. We have not done that in years. The reason for the amendments to that section was to be certain that, as e-ballots come in from overseas, the clerks verify the signatures on the "envelopes." That is covered under another section, and we do verify those signatures.

Again, in A.B. 81, section 24 on page 18, we have no amendment to this, but I want to point out that this has been an ongoing friendly discussion with the Secretary of State for quite some time. Under present law, the clerks' offices can close on Nevada Day, because that is a state holiday. Several of the counties chose to do that over the last few elections because no one shows up in those rural counties, yet they have to keep their offices open and pay staff. The Secretary of State's Office simply inserted the language "federal" holiday into the statute, which would eliminate the problem. All the large counties stay open; it is our biggest day and is very important to us.

On page 20 in the section Mr. Lomax talked about earlier, we support his suggested amendments concerning picking 5 percent of the precincts for absentee ballots and that language.

We support the electronic filing of reports as long as they are filed with the Secretary of State's Office. That is the biggest confusion we have—people filing in the wrong place. Electronic reporting would be a real step forward.

Concerning the pilot program in Clark County to register to vote electronically, the rest of the state would also like that ability. The fears a lot of people have are not justified. We had to step over that boundary ourselves, but it is really no different from completing an affidavit on paper, sending it to us, and us entering the data. If the voter registers online, the information must exactly match the information on that individual's driver's license. Then, if the signatures match, the Department of Motor Vehicle's signature is brought into our database and attached to our file. It would save a lot of time for us as far as data entry goes, and it is legible because it is typed. We had a couple of other ideas, but we will submit them to you later.

**Woody Stroupe, Private Citizen, Clark County, Nevada:**

I represent myself. I think both bills give the Secretary of State very broad and often unspecified powers. I think these bills should be killed, not just certain provisions removed.

The civil penalties have been discussed and the increased filing fees have been covered by others. I want to say that we are very distrustful of electronic voting. We are very suspicious. Many people in Clark County register to vote and then vote who are not eligible, and we think this bill will just compound that problem. We certainly do not want that to happen. As far as easing the mail-in ballots, Clark County currently violates the law by mailing mail-in ballots that are not really requested. This practice is voter fraud and it will worsen under A.B. 82 if more mail-in ballots are allowed.

These bills appear to be designed to prevent PACs and other ordinary citizens from participating, and their provisions weaken our very, very loose voting laws. Please vote no on both A.B. 81 and A.B. 82.

**Carole Long, Private Citizen, Clark County, Nevada:**

I am addressing you as "Citizen Jane." I was trusting of our government and of our elected officials. Within the last 20 years I have found that not everyone can be trusted. I am not addressing the Committee members here, but the laws. The people who write and make the laws should be trustworthy. In the last couple of years I do not feel that our elections and our laws are worthy of the citizens' trust. There have been too many questions, and these two bills open up those questions to total irregularities. I request that you vote no on these two bills.

**Woody Stroupe:**

I wanted to make a point I did not cover. In section 41, where it states that "A person shall not make a contribution" to a candidate that "exceeds \$5,000," we would like to amend that to say that no unions, no corporations, and no PACs can contribute; only individuals' dollars should be accepted—not dollars from those organizations.



**Chair Segerblom:**

Are there any further questions from the Committee? Are there any further comments from the audience? Seeing none, we will close the hearing on A.B. 81 and A.B. 82. We are adjourned [at 3:32 p.m.].

RESPECTFULLY SUBMITTED:

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Terry Horgan  
Committee Secretary

APPROVED BY:

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Assemblyman Tick Segerblom, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Legislative Operations and Elections

**Date:** March 1, 2011

**Time of Meeting:** 1:36 p.m.

| <b>Bill</b>                | <b>Exhibit</b> | <b>Witness / Agency</b> | <b>Description</b>        |
|----------------------------|----------------|-------------------------|---------------------------|
|                            | A              |                         | Agenda                    |
|                            | B              |                         | Attendance Roster         |
| A.B.<br>81 &<br>A.B.<br>82 | C              | Ross Miller             | PowerPoint                |
| A.B.<br>81                 | D              | Ross Miller             | Proposed Amendment        |
| A.B.<br>82                 | E              | Ross Miller             | Proposed Amendment        |
| A.B.<br>81                 | F              | Ross Miller             | Matrix                    |
| A.B.<br>82                 | G              | Ross Miller             | Matrix                    |
| A.B.<br>81                 | H              | Larry Lomax             | Proposed Amendment        |
| A.B.<br>81                 | I              | Lynn Chapman            | Nevada Family Voter Guide |
| A.B.<br>81                 | J              | Janine Hansen           | Copy of Signature Page    |
| A.B.<br>82                 | K              | Janine Hansen           | Proposed Amendment        |