

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

**Seventy-Seventh Session  
February 12, 2013**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Pat Spearman at 8:01 a.m. on Tuesday, February 12, 2013, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Pat Spearman, Chair  
Senator Mark A. Manendo, Vice Chair  
Senator Kelvin Atkinson  
Senator Barbara K. Cegavske  
Senator James A. Settelmeyer

**STAFF MEMBERS PRESENT:**

Carol M. Stonefield, Policy Analyst  
Melissa Mundy, Counsel  
Kaci Kerfeld, Committee Secretary

**OTHERS PRESENT:**

Ross Miller, Secretary of State  
Larry Lomax, Registrar of Voters, Clark County  
Alan H. Glover, Clerk/Recorder, Carson City  
Scott F. Gilles, Deputy for Elections, Office of the Secretary of State

**Chair Spearman:**

Today, we have a presentation by Ross Miller, Nevada Secretary of State.

**Ross Miller (Secretary of State):**

Today I will give an overview presentation on the Secretary of State's Office ([Exhibit C](#)). The Secretary of State's Office is the third-ranking Constitutional Office in the State of Nevada. We have six deputies and a staff of about 130—only eight of whom are in the Elections Division. Our main office is in the Capitol Building, and we have smaller offices in Reno and Las Vegas. The duties

of the Secretary of State are varied, but the main divisions are Elections, Commercial Recordings, Securities, Notary and Operations. We attend to State business licenses and domestic partnership registration. I also serve on a number of boards, including the State Board of Examiners, the Tahoe Regional Planning Agency, the Office of Economic Development, the Committee to Approve Schedules for the Retention and Disposition of Official State Records and the Board of State Prison Commissioners. Despite the fact we only have eight people in the Elections Division, the public most often associates the Secretary of State in the role of the State's Chief Elections Officer.

The rules regarding the initiative petition and referenda process changed substantially during the past two Legislative Sessions. Signatures from 10 percent of voters who voted in the last preceding general election are required for a successful petition. Because of our high turnout in November 2012, petitions now require over 100,000 signatures, including at least 25,000 signatures from each petition district. Some of the relevant initiative petition and referendum dates are listed on page 4 of [Exhibit C](#).

This agency is also responsible for ensuring that Nevada remains in compliance with the Help America Vote Act of 2002 (HAVA). This Act was passed following the Florida debacle in 2000 to create uniform standards in our elections in this Country. Additional federal mandates were put into statute and the federal government appropriated substantial federal funds to carry out the mission. Nevada has received \$23 million in federal funds and has approximately \$4 million left. We are waiting to hear if Congress will appropriate any new funding to meet HAVA requirements, but we are not optimistic that there will be any large payments in the near future.

Nevada was a swing state in the 2012 election, which brought a lot of attention as one of the most significant states in deciding not only the presidency but also a top-five U.S. Senate race. As a result, we saw a record number of people register to vote in Nevada—the highest number of registered voters in the State's history. Today, there are 1.3 million voters who are actively registered in Nevada, which surpasses the totals from last November. We also have 98,000 inactive voters.

Voter turnout also set an all-time record in the 2012 presidential election, as 80.79 percent of Nevada's registered voters cast their ballots on November 6. Nevada voters also distinguished themselves by having the highest increase in

turnout percentage—an increase of 4.5 percent—of any other state in the Union compared to the 2008 presidential election. That was particularly impressive considering only a handful of states had any increase in turnout. By contrast, the voter turnout in the primary was poor. Only 199,797 voters showed up, which accounted for 18.87 percent of active registered voters.

We have put a number of tools in place trying to make the process as easy and convenient as possible, one of which is the “My Voter File.” This tool allows individuals to verify their information, look up their elected officials and find their voter history along with their polling locations. A large focus of our efforts has been to improve ballot access for military and overseas voters. We worked with former Senator Terry Care on A.B. No. 100 of the 76th Session, which implemented the Uniformed Military and Overseas Absentee Voters Act. This Act standardized the process for all military and overseas voters. Nevada also led in the enactment of the Military and Overseas Voter Empowerment (MOVE) Act, which mandates ballot materials be mailed 45 days before a federal election. We have received acclaim from nonpartisan groups in terms of our outreach and accessibility to our military and overseas voters.

Early vote continues to be a significant success in Nevada and somewhat of a national model in how we carry it out. It is becoming more popular in Nevada, and nearly seven out of ten votes cast are now done so before Election Day. Only about 30 percent of the electorate showed up on Election Day in order to cast ballots.

Our team redesigned a successful election night reporting Website for the 2012 election without spending any additional resources. The over 30,000 visits on election night with approximately 250,000 page views was much lower than we had anticipated, given the traffic and activity we saw on our Website for the 2010 general election. That was due largely to the fact that the national media outlets had called the presidential race very early in the evening, even before we started releasing results.

Another accomplishment is that we now have online voter registration available statewide. We were the ninth state to implement online voter registration. It requires a new registrant to have a Department of Motor Vehicles (DMV)-issued driver’s license or identification card in order to complete an online registration or update. It allows residents to register for the first time but also to update their status if they need to change their addresses.

We launched statewide online voter registration on September 6, 2012, right before the busiest registration activity period for our clerks. In 2010, online voter registration was a pilot project that operated only in Clark County. It has been a significant success with a 300 percent increase in the usage of online voter registration. This tool makes the voter registration process much more efficient for our clerks and registrars. With online voter registration, the clerks and registrars do not have to enter information, which reduces errors. We have had a number of problems with out-of-state groups or third-party groups registering voters in Nevada. This system takes them completely out of the process, registering directly with the Secretary of State's Office where the information filters down to the clerks.

We have also created Nevada's multijurisdictional Election Integrity Task Force—comprised of representatives of my Office, the Attorney General's Office, local law enforcement and federal authorities, including the FBI and the U.S. Attorney's Office for the District of Nevada. We have used the Task Force to aggressively prosecute election law violations which has resulted in criminal convictions. Federal officials have cited our Task Force as a model for other states to replicate.

The 2012 election was the first cycle in Nevada in which all campaign contributions and expenses had to be reported electronically. This measure was important to campaign finance because it eliminated filing offices in multiple jurisdictions and added an unprecedented level of transparency to the process.

We have three election bills before you this Session. The first is Senate Bill (S.B.) 49.

**SENATE BILL 49**: Revises provisions relating to public officers. (BDR 24-382)

This legislation—named the "Aurora Act" for our Website window, [Exhibit C](#), page 17—is proposed to provide more transparency and disclosure in the reporting of campaign finance. It would require near real-time reporting of large contributions and expenses. Any contribution or expense over \$1,000 would be required to be reported within 72 hours. This bill will also define personal use of campaign contributions to provide guidance as to how a candidate can expend campaign funds, which mirrors the federal standard. It will also clarify the definition of a gift and create a category of restricted donors for public officers

while providing direction as to what gifts are acceptable and which must be reported.

We also have an election modernization bill, S.B. 63.

**SENATE BILL 63**: Revises provisions governing the administration of elections.  
(BDR 24-384)

I would not refer to this as a voter identification bill. We ask the Legislature to mandate and the State to fund the use of electronic poll books at polling locations. As part of the modernization project, poll books would include a photograph imported from the DMV. When individuals show up to vote, the election worker would compare the photographs with the individuals who wish to vote. If they do not have photos on file with the DMV, we would ask to take their photos. If they refused to have photographs taken or objected for religious or cultural reasons, they could fill out an affidavit saying they are who they say they are and be given a full ballot. This would require a modest influx of money, but it is a substantial upgrade to an already antiquated system that would benefit clerks in the long term. This would increase safeguards in the elections system while not disenfranchising a single voter. This will create a pathway toward making the voting process much more accessible and convenient.

The last bill is our technical corrections bill, Assembly Bill (A.B.) 48.

**ASSEMBLY BILL 48**: Makes various changes relating to elections. (BDR 24-383)

This bill makes technical corrections to *Nevada Revised Statutes* (NRS) 293 and NRS 294. This is a response to lessons learned from previous election cycles up through the 2012 election. Every election, a law is brought to our attention that is difficult to interpret or is in conflict with another. This bill attempts to clarify those areas so people are assured of the rules. Many of the revisions are intended to condense and simplify the campaign finance reporting statutes. The bill will define what constitutes an independent expenditure and also create additional expense reporting categories to assist those who file reports.

**Senator Cegavske:**

How much money does Nevada have left in the HAVA account?

**Secretary of State Miller:**

A little over \$4 million.

**Senator Cegavske:**

Is there anticipation of any more money?

**Secretary of State Miller:**

It is possible. Congress has still not appropriated all of the funds initially authorized under HAVA. We occasionally get small appropriations. The bigger question is whether we would see an amendment to HAVA come out of Congress, which may include some appropriation. The overwhelming majority of states are in the same boat as Nevada with aging election systems that ultimately need to be replaced.

**Senator Cegavske:**

How are the machines in Nevada looking?

**Secretary of State Miller:**

The machines are over 10 years old at this point. We need to move to the next generation of voting machines or systems. How to pay for that is an area of concern.

**Senator Cegavske:**

Is there a way to update these machines, or do all machines need to be replaced?

**Secretary of State Miller:**

If we were to overhaul the system, we would need to buy the next generation of election machines and replace all existing machines. Most states have now moved toward some type of paper ballot system that includes optical scanning. Given the upside and downside to move into that system, my successor needs to be intimately involved in the next generation of voting machines. Another factor for consideration is that in order to use them in a federal election, these machines need to be certified. The U.S. Election Assistance Commission (EAC) is the body responsible for certifying the machines, and the EAC is not operational at this point because it does not have the full appointments.

**Senator Manendo:**

What are your thoughts on moving the primary from September to June? Did you see that as a success?

**Secretary of State Miller:**

I do think it was a success. A September primary makes it difficult to meet deadlines for the general election. The MOVE Act now mandates that all ballots are sent to military and overseas voters within 45 days. With a primary in September, it would be problematic to meet the federal deadlines. We had achieved that before without ever facing a recount or getting stuck in court. From the perspective of administering the election, having the earlier date is extremely important.

**Senator Manendo:**

I understand administering deadlines. It seems to make a longer election cycle with signage up early.

**Chair Spearman:**

What is the percentage of voter fraud?

**Secretary of State Miller:**

That is difficult to answer. In the elections that I have administered since 2006, we have not seen much evidence of voter fraud. We have seen instances of voter registration fraud, which is significantly different. The one occurrence of someone trying to cast an illegal vote in the last election cycle was detected by safeguards in place that held her accountable. Every election cycle, we have instances of a small handful of people attempting to vote twice. We investigate those instances aggressively. We have not brought forward many prosecutions through those investigations.

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

I am here to give you an overview of elections in Clark County. It is impossible to have a primary in September and comply with federal law which requires ballots be in the mail to overseas soldiers 45 days prior to an election. If that 45 days falls within the period when we are still auditing the elections, primary elections would not yet be certified when we would have to mail out the ballots for the next election. The primary election previously moved up to August under an agreement with this Committee as to the latest date we could have a primary and still comply with federal guidelines—federal statutes allow 45 days. We

decided to hold the primary 12 weeks prior to the general election—the law actually read the Tuesday that was 12 weeks prior to the general election. We tried having the primary in August for a couple of election cycles, but it was too hot. We have now moved it back to the second Tuesday in June. From an election perspective, it works well. I understand it becomes a longer election year, but I am not sure there is a good alternative solution.

The manner in which elections are conducted in Clark County is going well. The voter turnout in Clark County in the last election was 81 percent—almost 700,000 voters. The audit showed no evidence of any election fraud other than one or two individuals who seemed to create some mischief. People in Clark County can be confident that the results reported represent the ballots cast by individuals. Other states are conducting studies as to how to fix their broken election process. Some states had 6-hour lines in the last presidential election. We had hundreds of lawyers from out of state come in as observers in the presidential election. Observers questioned why their state did not conduct the election in the same way. The two most impressive things are early voting and the fact that we can have a turnout of 81 percent, which is higher than other states, and not have lines on Election Day. The reason is early voting.

We had national and international media in Clark County to report on our elections. As they did in 2008, the media commented that voting is easier and more convenient in Nevada than in any other state. Early voting has a large impact. The first presidential election with early voting available was in 1996. During this election the overall turnout in Clark County was 61 percent with 17 percent of votes cast early. During the 2012 presidential elections, the overall turnout was 81 percent with 63 percent of votes cast early. We went from the lowest turnout in the Western states in 1996 to the highest turnout in the Western states in 2012. I attribute that increase to the convenience of early voting.

We go to where the people are for early voting instead of making the people come to us. We go to grocery stores, libraries and community centers where people congregate—even when we are not there—and we put voting machines in front of them. People respond by voting. In those parts of Clark County where we cannot place voting machines into stores or facilities, we set up four mobile trailers with voting machines accessible to the residents. This has worked exceedingly well to make early voting available to people who otherwise may not have had that opportunity. Over 65,000 people voted in the

four trailers in the 2012 election. We have created a win-win situation for all voters. Early voters may go out and vote at a time and place that is convenient for them. The people who vote on Election Day—205,000 people in 2012—do not have to wait in a long line because 437,000 people already voted early.

One thing required to make early voting possible is a voting machine that allows any voter to vote at any location. In a general election in Clark County, the voting machines must pull over 300 versions of the ballot in three different languages, depending on where the voter resides. In a primary election with Republican, Democrat and Nonpartisan ballots in three languages, there can be over 1,000 versions of the ballot. The voting machines are equipped for all voters in Clark County regardless of where the voter lives in the County or what language one prefers for the ballot. In order to have 1,000 versions of a paper ballot available, we would be unable to hold early voting in multiple locations. The voting machines are key to the success we have had in early voting. Those will have to be considerations when the equipment is replaced if early voting is to continue.

The voting machines we have in Clark County should support us through the next presidential election. Several counties in California used the same equipment as we use in Clark County; however, the use of voting machines was banned in California. Clark County bought many like-new voting machines from California, and we now have a significant supply of spare parts that should enable our machines to last a couple more election cycles.

Three significant changes were implemented in the 2012 election. The first alteration was the inclusion of the Filipino language on the ballots. I am frequently asked why ballots are provided in another language. Every time a census is conducted, the director of the U.S. Census Bureau is required to determine what languages ballots must be available in throughout the Country. If 5 percent of the population speaks another language and has difficulty speaking English, then that language will be added as a requirement. We expected Spanish after the 2000 census, but we were blindsided by the requirement to add Filipino in 2010. We were able to conduct everything in Filipino in the Tagalog dialect, determined to be the most effective dialect by a committee we put together of Clark County Filipino citizens.

The second innovation in the 2012 election was electronic voting for military and overseas voters. This works by emailing voters a pdf of a ballot that they

can print, fill out and email back to us. We had well over 2,000 people vote this way in 2012. They were extremely grateful to be given the opportunity to vote in this manner. In the past, it took at least 30 days to get ballots over to Afghanistan or Iraq. We turned every electronic request around in 24 hours, even on Election Day.

The third new process this election cycle was online voter registration. Online voter registration became effective in Clark County 1 month prior to the general election in 2010. There were 50,000 people who registered to vote online between 2010 to 2012. That is only 15 percent of the people who registered during that 2-year period, but it is still 50,000 applications that did not have to be manually entered into the system. Despite concerns about security and fraud, online voter registration is as valid as paper registration. It requires the same data; the only difference is that the person registering enters the information, which helps cut down errors. Data registered by the person ships the same night to the Secretary of State for an automatic feed into DMV or the U.S. Social Security Administration records and subsequent cross-check. The next day, a report informs us if the data inputted into the system matches. We are also notified if the information does not match, in which case that voter is required to show identification the first time he or she votes.

We did not have to deal with the Association of Community Organizations for Reform Now—best known as ACORN—this time for voter registration which was helpful. We did receive complaints about partisan groups from both parties registering voters and asking questions to identify presidential preference. If the response was for their party, they would register the voter; if not, they would walk away. In some cases, they were actually wearing partisan paraphernalia. We received a lot of complaints, but nothing in statute prohibits this. In some other states, the only people who can register voters must be employees of the elections department. Quite a few people new to Nevada were upset when they saw this and thought we were sponsoring a certain party.

Overall, Clark County is good with elections. All of the clerks are committed to the integrity of the election process. I do not have any concerns about fraud in the State of Nevada.

**Alan H. Glover (Clerk/Recorder, Carson City):**

The voting experience in Carson City and the rural counties is similar to that of Clark County. As a candidate and an election official, I understand both sides of

having the primary in June and extending the campaign period. Having the primary in June took the pressure off us for printing and handling any legal issues that surfaced.

Online voter registration has helped us save money on the county level by reducing time for data input. The online registration must match DMV records exactly or else the system will not let a person register. Carson City had an 89.9 percent voter turnout—about 9 percent higher than the State level. We also had an 89 percent turnout with military and overseas voting. Electronic voting helps with military and overseas voting because if we have not received a ballot, we can email the person to remind them. The system we have is cost-effective and practical. The clerks I have spoken to are in support of the Secretary of State's legislation allowing for online voter registration in the last 10 days.

The election laws in Nevada are unique and not terribly complicated. As clerks, we understand Nevada election laws, and voters can too. The voting machines are challenging because they are getting old and starting to go out on us. In some cases the screens go blank, but the ballots already cast on the machine are saved. When Nevada makes a large equipment purchase, the State normally builds 10 percent into the budget each year ahead of time, but we never did that. I emphasize that we really like the system; however, the machines are another story.

The other issue set to affect us next election time is the National Voter Registration Act of 1993, also known as the Motor Voter Act. Nevada did not come into compliance with the Motor Voter Act wherein a person goes to the DMV, receives a prefilled form with their information as on file, picks a party and is registered to vote. That was never implemented because of cost. Last year, a modification enabled a file to be sent to us when a person changes his or her address at DMV, so we may update the voter's registration file. A problem involves a nonregistered voter who checks to change the address. The other problem is when a registered voter changes the address with a move to a different county. Although convinced he or she is a registered voter, the person remains unregistered in the new county. Problems then arise on Election Day next year because the individual assumes registration—but we did not receive that information. The DMV has gone out of its way—changing the form to advise a voter to reregister or register in his or her county—to do everything it can to get you to register right when you are at the DMV.

The other problem we have with registering people goes back to voter fraud. A lot of people who register to vote do not live where they say they live. Some people use business addresses that fall in a residential area. We think they are doing this for tax reasons to establish residency in Nevada. We have had a couple of voter fraud cases: one where a person voted as a felon and another where a noncitizen son voted for his father.

**Senator Cegavske:**

Is there a certain age group that complains about Election Day voting?

**Mr. Lomax:**

We have never researched the preferences by age. I do not get many complaints because people can do either early voting or Election Day voting. We are not trying to get rid of one for the other; we want to offer both.

**Senator Cegavske:**

Do you see early voting as a success?

**Mr. Lomax:**

I see it as an enormous success.

**Senator Cegavske:**

Does early voting help Clark County just because of the volume of people?

**Mr. Lomax:**

We would need a lot more voting machines if an additional 437,000 voters came to vote on Election Day.

**Senator Cegavske:**

There was a lot of controversy when we were voting on these machines. Is there a way to replace a card in the machine without replacing the entire machine?

**Mr. Lomax:**

There was not controversy when we purchased these machines; however, there was a large amount of discussion when we implemented the prior set of machines. These machines can be replaced part by part if you have the technical expertise. Clark County is the only county that has a staff able to

work on the machines. The vendor does the repairs for the other counties around us.

**Chair Spearman:**

What is the cost difference of having vendors service the machines versus in-house technicians?

**Mr. Glover:**

The Secretary of State pays for the vendors to service our machines. We keep a record of every machine that has a problem and give that to the vendor. Some problems are physical, such as a screw falling out, but most of the issues involve checking why the screen went blank or why we received a fatal error message. Parts can be replaced for an upgraded software version, but we do not see that very often because the machine still has to be certified. Software can be upgraded fairly easily; it is the mechanical part of the machine, like the screen on a laptop, that wears out. If we had the parts we would install a new screen.

**Chair Spearman:**

It is usually cheaper to have someone inside who does the work instead of contracting outside. Eventually, we need to replace some of the machines we cannot patch. How much additional money are we spending to have vendors do repairs instead of employees? If we project that exponentially, what does it look like in terms of cost factor for replacement or a continuation of that process?

**Mr. Glover:**

In the rural counties, we had thought about pooling together resources to look into that. We thought of buying parts and having someone trained who could service the rural counties. We have not found out yet if it would be cost-effective to do that.

**Chair Spearman:**

Do you have a report showing the cost for vendor versus in-house?

**Scott F. Gilles (Deputy for Elections, Office of the Secretary of State):**

I do not have hard numbers today. The servicing contract that the Secretary of State's Office pays for covers all counties with the exception of Clark County. We enter into a contract of approximately \$2 million with Dominion Voting roughly every 2 years for the federal election cycle. A large part of that is the

licensing, and a lot is for preventative maintenance performed before each election. We will renew that contract this July and have the breakdowns on those numbers again. With the exception of Clark County, the maintenance and upkeep is handled through a contract with the vendor paid out of our budget at the Secretary of State's Office.

**Chair Spearman:**

Is this the most fiscally prudent way to do this, or should we look at modernizing some of the machines so we are fiscally responsible in the long run?

**Senator Settlemeyer:**

How much does Clark County spend on the same maintenance since \$2 million is being spent for 30 percent or 40 percent of the State?

**Mr. Lomax:**

Six people work in my warehouse. Part of their responsibility is upkeep on the machines, so it would be a portion of the salaries of those six people.

**Senator Settlemeyer:**

Does that also include licensing fees for Clark County?

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**Mr. Gilles:**

The Secretary of State's Office pays a portion of Clark County's licensing fees.  
I can provide a breakdown of the contract and the specifics.

**Chair Spearman:**

We call this meeting to adjournment at 9:03 a.m.

RESPECTFULLY SUBMITTED:

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Kaci Kerfeld,  
Committee Secretary

APPROVED BY:

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Senator Pat Spearman, Chair

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

<b><u>EXHIBITS</u></b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A	1		Agenda
	B	2		Attendance Roster
	C	21	Secretary of State Ross Miller	Elections Overview Presentation