

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

**Eighty-First Session
February 4, 2021**

The joint meeting of the Assembly Committee on Legislative Operations and Elections and the Senate Committee on Legislative Operations and Elections was called to order by Chair Brittney Miller at 4:05 p.m. on Thursday, February 4, 2021, Online. 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/App/NELIS/REL/81st2021.

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Assemblywoman Brittney Miller, Chair
Assemblywoman Sandra Jauregui, Vice Chair
Assemblywoman Jill Dickman
Assemblyman Jason Frierson
Assemblywoman Cecelia González
Assemblyman Glen Leavitt
Assemblyman Andy Matthews
Assemblyman Richard McArthur
Assemblywoman Daniele Monroe-Moreno
Assemblywoman Clara Thomas
Assemblywoman Selena Torres

ASSEMBLY COMMITTEE MEMBERS ABSENT:

None

SENATE COMMITTEE MEMBERS PRESENT:

Senator James Ohrenschall, Chair
Senator Roberta L. Lange, Vice Chair
Senator Carrie A. Buck
Senator Nicole J. Cannizzaro
Senator Heidi Seevers Gansert



SENATE COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Marsheilah D. Lyons, Committee Policy Analyst
Michael Stewart, Committee Policy Analyst
Kathleen M. Norris, Committee Counsel
Bryan Fernley, Committee Counsel
Bonnie Borda Hoffecker, Committee Manager
Jordan Green, Committee Secretary
Terry Horgan, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

Barbara K. Cegavske, Secretary of State
Mark A. Wlaschin, Deputy of Elections, Office of the Secretary of State
Yvonne M. Nevarez-Goodson, Executive Director, Commission on Ethics
Darla Lee, Private Citizen, Sparks, Nevada
Kimberly Fergus, Private Citizen, Las Vegas, Nevada
David Gibbs, Private Citizen, North Las Vegas, Nevada
Alida Benson, Private Citizen, Las Vegas, Nevada
Carolina Serrano, Private Citizen, Las Vegas, Nevada
Melissa Clement, Private Citizen, Reno, Nevada

Chair Miller:

[Roll was called. Chair Miller reminded Committee members, presenters, and members of the public about Committee rules and protocol.] Good afternoon, everyone. Welcome to our first joint meeting of the Assembly Committee on Legislative Operations and Elections and the Senate Committee on Legislative Operations and Elections. We are glad to welcome the Senate Committee members here today. Our Committees have the luxury of being scheduled to meet within one half hour of each other, so we are able to take advantage of that and have joint meetings when appropriate. We thought for the first few meetings that will be primarily presentations, it would be beneficial to all of us, including our presenters, to meet together. Before I go any further, I would like to invite Senator Ohrenschall, who is Chair of the Senate Committee on Legislative Operations and Elections, to make any opening remarks.

Chair Ohrenschall:

I want to thank Chair Miller and the members of the Assembly Committee. It was a real honor to serve on the Assembly Committee in the past, and I was able to chair the Assembly Committee too. I appreciate all the good work that your Committee does, and I am glad we get to work together and hear some of these presentations. I hope we can have more joint meetings in the future.

Chair Miller:

We will go ahead and move to the first agenda item. Our presentations today begin with the Office of the Secretary of State. Later we will hear from the Commission on Ethics. I would like to welcome our presenters from the Secretary of State's Office: Secretary of State Barbara Cegavske and Deputy of Elections Mark Wlaschin. Would you like us to hold questions until the end of your presentation, or do you prefer to take questions throughout?

Barbara K. Cegavske, Secretary of State:

If we could first do the presentation [[Exhibit C](#)], that would be very good.

Good afternoon. It is a pleasure to be here. Present with me today are my Chief Deputy, Scott Anderson, and my Deputy of Elections, Mark Wlaschin. We are happy to give you an overview of the Office of the Secretary of State and its role in Nevada elections. I wanted to reassure you that our elections are always conducted in accordance with all federal and state laws. As I have stated on numerous occasions, we take every election integrity violation complaint seriously and investigate all allegations. To this day, we have seen no evidence of widespread voter fraud or voting machine errors in Nevada. I highlighted that because during the next 116 days there will be many discussions about the future of Nevada's elections, and if you have questions, please let us know. We have a "Facts vs. Myths" document on our website that you may find helpful to provide clarity. It is located on NVSOS.gov. The link is in the top banner. My staff and I will remain available to provide any information that may help facilitate discussions about Nevada's election laws and encourage you to include our Office in any election-related discussions.

The Office of Secretary of State is one of the original constitutional offices established in the *Nevada Constitution* and is responsible for maintaining the official records of the acts of the Legislature and the Executive Branch. Additional duties have been added over time and range from serving as the Chief Officer of Elections to the registrar of business entity filings to the Administrator of the Uniform Securities Act.

The Office of the Secretary of State is organized into eight main divisions [page 2]. We have the Elections Division, which everyone knows the most; the Commercial Recordings Division; the Securities Division; the Notary Division; Special Projects, which include managing document preparation services, domestic partnership registrations, and the Nevada Lockbox; the state business portal, SilverFlume; Executive Administration; and Operations. Additionally, as part of the Election Integrity Task Force, we work closely with numerous federal and state law enforcement agencies.

Our main offices are located in Carson City in the Capitol, the Meyers Annex across the street, and the Blasdel Building. We also have an office in the city hall building in North Las Vegas.

I would now like to turn it over to Mark Wlaschin, Deputy of Elections, for the remainder of the presentation.

Mark A. Wlaschin, Deputy of Elections, Office of the Secretary of State:

Good afternoon. Over the next 33 slides [[Exhibit C](#)], I will cover the Secretary of State's Election Division, our roles and responsibilities, and information about past and ongoing projects.

Nevada Revised Statutes (NRS) 293.124 directs the Secretary of State to act as Chief Officer of Elections for the state and makes her responsible for the "execution and enforcement of the provisions of title 24 of NRS and all other provisions of state and federal law relating to elections in this State."

To assist her in these duties, the Elections Division consists of 15.5 positions [page 4]. These positions include: 11 full-time equivalent positions, 2 of which are currently vacant and frozen; 4 contractors; and 1 part-time compliance investigator, who also supports the Commercial Recordings Division. Of note, five of our current employees are veterans. All of us are united in our dedication to our integrity and strict adherence to the elections processes prescribed by federal and state law. We also work closely with eight positions in the Securities Division and the Election Integrity Task Force, which is made up of a number of federal and state law enforcement agencies, to address violations of elections law.

As of February 1, 2021, there were approximately 1.8 million active registered voters in Nevada [page 5], with roughly an additional 200,000 inactive voters. It is important to clarify what that means. To be an active registered voter simply means that we have verified the address for that voter. An inactive voter means that we have received a returned piece of elections mail that was identified as being undeliverable, or that a voter has failed to respond to a confirmation notice from the county clerk. In fact, it is possible to be an active voter without having voted in the past decade. It is also possible to be an inactive voter but then go to the polls on Election Day, provide an updated address, reclaim your active status, and vote.

Turning to our elections in 2020 [pages 6 and 7], you will see statistics relating to voter turnout during the 2020 Primary Election contrasted with those from the 2018 Primary Election. You will notice that our overall voter turnout was high for a primary election with almost 30 percent turnout in 2020, despite the pandemic. Voter turnout for the 2020 General Election was also higher than in past years. This highlights how effective our current state

laws are at facilitating and encouraging voters to vote in a manner they choose and are comfortable with, even during a pandemic. Election Day voter turnout fell approximately 50 percent because such a large number of voters voted by mail and because of turnout during early voting.

A further analysis of voter turnout over the last 20 years indicates a continuing trend away from Election Day voting and towards early and mail-in ballot voting [page 8]. In 2020, this was at least partly due to the passing of Assembly Bill 4 of the 32nd Special Session, which directed that a mail-in ballot be sent to every active registered voter as a result of the Governor's proclamation of a state of emergency [on March 12, 2020].

Another big influence on voter turnout during this election was the implementation of same-day voter registration, as prescribed by Assembly Bill 345 of the 80th Session. The statistics on the bottom [page 9] show that more than 60,000 voters chose to either initially register to vote or to update their voter registrations on the same day they voted.

Automatic voter registration was enacted by the voters in 2018 and further prescribed by A.B. 345 of the 80th Session. It was implemented in January 2020. It resulted in the registration of eligible voters through automated processes while conducting specific transactions at the Department of Motor Vehicles (DMV). The process also identifies individuals who are not eligible and filters them out. No further enhancements or progress has been made since the initial implementation due to budget reductions and the COVID-19 pandemic.

The most significant impacts to the 2020 General Election came from Assembly Bill 4 of the 32nd Special Session. This required the distribution of mail-in ballots to all active registered voters. We saw the impact on voter turnout in the previous slides [[Exhibit C](#)], but we will need to wait to see if this exposure to mail-in ballots is something Nevada voters continue to request in future elections. While the last bullet identifies that 37 percent of the ballots mailed out were voted and returned [page 11], this represented a full 48 percent of the total ballots cast during the 2020 General Election.

The requirements to mail ballots cost taxpayers approximately \$2.6 million, or roughly \$1.46 per ballot. It is also important to note that the impacts of Assembly Bill 4 of the 32nd Special Session were not limited to the 2020 General Election alone. The upcoming election in Boulder City has also been identified as an "affected election" and will require the same distribution of mail-in ballots to all voters, as well as any future election deemed an "affected election" due to a declared state of emergency [NRS 293.8811].

They have also identified that the process by which the county clerks conduct voter registration list maintenance needs to be better explained to the general public. This process is mandated by a combination of federal and state laws. As it currently stands, the

Elections Division receives information from the agencies listed [page 12]. We provide that information to the county clerks who then act upon the information. It happens this way because the voter registration records are maintained in each county. As such, Nevada's system is considered a bottom-up system. We are currently in the process of transitioning to a top-down system, where the voter registration records will be centralized with the state. Once this system is completed, the Secretary of State's Office will be able to play a much more active role in list maintenance.

During the 2020 election cycle, we also conducted a pilot program of a risk-limiting audit. This pilot program was required by Senate Bill 123 of the 80th Session. A risk-limiting audit is an additional process used to validate that the machines used during the election accurately report the votes cast. We conducted a pilot program using four counties [Clark, Pershing, and Washoe Counties and Carson City] for the 2020 General Election, which will aid us in developing our regulations prior to the 2022 election cycle. We are also conducting a risk-limiting audit during the upcoming primary and general elections in Boulder City in early 2021.

The following slides [pages 15 through 18] describe some of the agency's elections-related websites and provide context about them. First up is SilverStateElection.nv.gov, which is our website for reporting election night and official election results. The statistics from the website indicate a few things. First, significantly more users came to the website in 2020 than in 2018, indicating that the Secretary of State's Office continues to be recognized as the trusted source for elections results. Second, the peak in website traffic did not occur until two days after the election. This reflects the reality that, in most cases, our contests were not decided by election night and additional ballots still needed to be counted pursuant to state law. This slide [page 16] shows the statistics from 2020 compared to the statistics of the 2016 elections, reinforcing the same points as before.

Another of our websites that voters found quite useful during the 2020 election cycle is the registered voter services, which is available through the NVSOS.gov website and provides a number of resources to voters. This is an integral part of the agency's effort to enable voters to make choices based on their preferences and needs.

The Nevada Online Voter Application, or NOVA, is located at RegisterToVoteNV.gov. It is the application through which eligible citizens are able to register to vote. Since its creation in 2010, more than 787,000 individuals registered online. Of note, the eligibility of these individuals was automatically verified by the DMV and Social Security Administration.

Here [page 19] are the online voter registration statistics for the entire 2020 election cycle at the top and just the 2020 General Election numbers at the bottom. These numbers highlight the importance of offering this online service for new registration and updates, which helps voters maintain the accuracy of their voter registration and their active voter status.

The Effective Absentee System for Elections (EASE) is an online system for the several thousand Nevadans who are currently serving in the military or who are living overseas. Federal laws provide voting protections for uniformed service members, their family members, and citizens residing outside of the United States. The EASE system enables them to register to vote, request a ballot, and send an encrypted file to their county clerk that indicates for whom they would like to vote. More than 1,200 individuals were able to vote during this election cycle using the EASE system.

In April 2020, EASE was expanded to allow its use by Nevada residents with disabilities. Ninety-three Nevadans with disabilities were able to take part in the election using EASE, and we anticipate that number to grow for future election cycles.

Election security is increasingly complex. Fortunately, we are part of a strong network of organizations dedicated to ensuring fair and secure elections. The Election Integrity Task Force (EITF) [page 22] is a critical part of our effort to ensure the security of our elections. Composed of a number of federal and state law enforcement agencies, EITF formally meets and collaborates for each election, with all members maintaining routine and clear lines of communication between elections, sharing best practices, threat warnings, and new developments.

Recognizing that our websites are vital to Nevada voters, the Office of the Secretary of State fosters a culture of cybersecurity. This cultural mentality reinforces best practices, stresses the need for constant vigilance, and promotes a keen awareness for the potential impacts of the current cybersecurity environment. To this end, we allocate resources to address both the cyber and physical security requirements needed to ensure fair and safe elections and to ensure the security of all systems of the Secretary of State's Office.

We request and use grants to enhance our security. We have joint organizations that share elections-specific security information, including the Elections Infrastructure—Information Sharing and Analysis Center, or EI-ISAC, and the National Association of Secretaries of State. We also work with numerous state and federal agencies. Doing so has ensured that we are staying on the cutting edge of elections security and has helped us administer what the Election Infrastructure Government Coordinating Council called "the most secure election in American history." [A hyperlink to the official press release from the Cybersecurity and Infrastructure Security Agency of the U.S. Department of Homeland Security, dated November 12, 2020, is available on page 23 of [Exhibit C](#).] That is not to say there were not threats to our election.

I want to highlight that we identified record attempts by domestic and foreign actors to disrupt our websites and services. To be clear, these efforts were not focused at our voting machines, which are stand-alone or air-gapped units not connected to the Internet. Instead, these were efforts to interfere with or degrade our online services that I described before. You can see [page 24] that just one of our numerous security technologies blocked more than 5,800 malicious actions in just one three-month period. These attacks did not start on

Election Day, nor did they stop once the election was certified. While many of these attacks originated overseas, most came from within the borders of the United States. This level of protection could not have been possible without the partnership of EITF and our federal and state partners mentioned earlier.

The Help America Vote Act of 2002 (HAVA) is another major part of our effort to ensure election security [*United States Code*, Title 52, Section 20901 et seq.]. Our HAVA administrator has her hands full ensuring that we effectively manage these federal grants in a manner that will continuously enhance voter access and election security. We will be using the 2020 HAVA grant funds to partially pay for our project to transition to a top-down voter registration program.

We also received \$4.5 million in Coronavirus Aid, Relief, and Economic Security (CARES) Act funds to assist in the administration of the 2020 election cycle [Pub. L. 116-136, Mar. 27, 2020, 134 Stat. 281]. During the primary election, for example, we used CARES Act funds to pay for a statewide voter education program and other supplies and equipment.

As for the machines we use to vote, here are some of the main types we use across Nevada. [Pictures shown on page 27 of [Exhibit C](#).] All of them are air-gapped, or not connected to the Internet, and all are used with voter-verified paper audit trail, known as VVPAT, which enables an in-person voter to confirm the accuracy of his or her ballot before casting that ballot. Nevada's voting machines were recently updated, too, courtesy of \$8 million provided by the 2017 Legislature. The updated equipment was first used during the 2018 election cycle with much success. Our voting machines and systems are certified by the Secretary of State's Office with assistance from the Nevada Gaming Control Board.

The next three slides describe applications and programs that also help facilitate or educate the public about Nevada's elections [pages 29 through 31]. The first is AURORA, an application that enables the mandated filing of campaign finance documents. This website is used by candidates to file contributions and expenses reports, as well as offering the public full transparency into candidate finances. Senate Bill 557 of the 80th Session revised the requirements for campaign finance reporting. These changes went into effect on January 1, 2020. There was a reduction in fines collected during the 2020 election cycle. We attribute this higher level of compliance to a more determined outreach program instituted by the Elections Division.

We also provide a service to future voters. The student mock election is conducted during every election cycle with the purpose to inform students about the voting process and the importance of their right to vote. Unfortunately, there was a significant drop in involvement this year, likely due to the pandemic and subsequent transition from in-person learning to online classes. Nonetheless, we will continue to offer this program and will identify methods to improve the outreach to and the experience of participants.

These last slides are specific to the current session [pages 32 through 35]. First, we have an update on the status of the initiatives and referendums. There were two amendments to the *Nevada Constitution* that were deemed insufficient when signature gathering attempts were abandoned due to COVID-19 restrictions. There were four initiatives to amend *Nevada Revised Statutes* (NRS), two were deemed sufficient and two were deemed insufficient. The two that were deemed sufficient have been delivered to the Legislative Counsel Bureau staff, as required.

The updated requirements for initiatives and referendums are shown here [page 34]. These are the due dates and signature requirements for an initiative or referendum petition to be deemed sufficient. As of our most recent count, there are 27 elections-related bill draft requests (BDRs). These BDRs cover a wide range of topics. It should be noted that, in addition to the changes that will result from this session, there is already a major elections bill going through the U.S. Congress right now. If passed, House of Representatives Bill 1 of the 117th Congress will have a number of major impacts on Nevada elections. We will monitor H.R. 1 closely for any such impacts.

Looking to the future, there are a number of projects underway that will further enhance the security, fairness, and transparency of our elections.

Barbara Cegavske:

I would like to thank the Legislature for its continued support during this and previous election cycles. This concludes our presentation, and we look forward to any questions or comments.

Chair Miller:

We know there was not a process, system, industry, or service that was not impacted due to COVID-19. The response and the efforts from the Secretary of State's Office were definitely recognized. I anticipate some questions from the Committee. Senators and Assembly members, do you have any questions?

Chair Ohrenschall:

I appreciate how hard you worked the last year during the pandemic trying to make sure that people could exercise their right to vote and participate in our democratic institution, so thank you for all the hard work with having to be so flexible and move so quickly.

I have two questions. Concerning the full provisional ballots that we instituted this year, I know there was a lot of worry about making that work. I just wondered how the Secretary of State's Office and the registrars found that that worked. Then with the transition to a top-down voting system, through the years we have heard that that would really solve a lot of problems. How far off in the horizon do you think we are to getting to that top-down system, and what kind of problems do you think that will solve once we have it?

Barbara Cegavske:

Thank you for your comments. I will let my Deputy of Elections, Mr. Wlaschin, answer those two questions because he is the one in the trenches.

Mark Wlaschin:

To make sure I have them right, the first question is about provisional ballots and how that process went. I think the bottom line and the big takeaway from the provisional ballots is that it did add a little bit of stress and confusion—not so much to the clerks, who were aware of it and expecting it, but really to the public in recognizing and understanding the impacts of the additional timelines required. As these provisional ballots were cast, we needed to hold onto them and make sure that the individuals were qualified, eligible to vote, had not registered in another county or state, and had not maybe even tried to vote in another county or state. That added a little bit of friction to it. However, in regards to the processing of the provisional ballots themselves, from a purely technical standpoint, there were no significant issues that I had heard about at any rate.

In regards to the transition to the top-down voter registration system that we mentioned earlier during the presentation, there are a few factors that I would like to bring to your attention. First, to answer you up front regarding the timeline, this is something that is, unfortunately, not going to be quick. We have discussed this process and the transition to this sort of top-down registration system with numerous other states to learn some of their lessons. One of the things they continue to repeat is, "Do not rush the process. Do not assume you can do this within a year or so." The goal is the 2024 or 2026 election cycles, but a lot of that is going to be contingent upon the process as we work through it. The first step in the process is underway currently. We are developing the request for proposals to have an assessment done. We are looking to have somebody examine our state system and resources to see if it makes more sense to use a commercial, off-the-shelf program, a proprietary system that we develop internally, or potentially some sort of hybrid. There are a number of factors that we are looking at to make sure that we collect, capture, and meet all of the county and state requirements. Again to your timeline, it will be a few years and happen in phases, but it is something that we are doing methodically and carefully in conjunction with not only the county clerks and registrars, but numerous other stakeholders to make sure that it is done properly the first time. We recognize that there is absolutely zero tolerance for this to go wrong as we move into another election cycle, whenever that may be.

Senator Buck:

I had a couple of questions. Has the Election Department of the Registrar of Voters for Clark County released a list of who received mail-in ballots?

Mark Wlaschin:

Is your question has Clark County submitted a list of who has received the ballots or just the numbers?

Senator Buck:

We are usually able to see who has received the ballots, and that is not viewable now.

Mark Wlaschin:

Interesting—I was not aware of that. I will look into that and get an answer to you as soon as possible.

Senator Buck:

Do you know how many mail-in ballots you sent to the post office that were flagged, such as for vacant addresses?

Mark Wlaschin:

Yes, I have that information right here in front of me. From the 2020 General Election, the number of mail-in ballots that were returned as undeliverable, or for a bad address, across the state was 118,524.

Chair Miller:

Does that conclude your questions, Senator Buck?

Senator Buck:

I believe so, thank you.

Chair Miller:

We have an additional question from Chair Ohrenschall.

Chair Ohrenschall:

I think my question is to the Deputy of Elections. I am not sure if this data is available, and maybe it is something I should circle around with you to get offline. For people who voted by mail and had an issue with their ballots—maybe the signature did not match or something was wrong—there was an effort to contact those people to try to get them to cure the problem with their mail-in ballot. Is there any data with how that compares to the normal absentee ballot process? Were more ballots not accepted? That is kind of the concern for me—was the process the same in trying to reach out to those voters to cure those mail-in ballots if the signature did not exactly match versus the normal absentee process in the past? Again, if that data is not available, I can circle back with you offline and get it.

Mark Wlaschin:

I do have the information in front of me regarding how many mail-in ballots required a signature cure, as well as how many we were not able to cure through the routine processes. In regards to the comparison, though, I will have to get back to you on that—comparing the process from the 2020 election cycle to previous mail-in ballot election cycles and those results. Would it be helpful to have the information that I have for the total numbers of rejected ballots?

Chair Ohrenschall:

If I could, yes.

Mark Wlaschin:

Of the mail-in ballots that we sent, 12,584 required a signature cure, which is approximately 1.8 percent of the mail-in ballots that we sent out during the 2020 General Election. Of those, 2,887 we were unable to get cured. I will follow up with you to compare that to previous election cycles.

Chair Ohrenschall:

Thank you.

Chair Miller:

We have a question from Assemblywoman Dickman.

Assemblywoman Dickman:

I just have one question. We seem to have a real issue with cleaning up our voter rolls in our state. I was wondering if anyone could explain what happened with the Clark County inactive voters who remained on the mail list because we missed the deadline for removing them after the primary election.

Mark Wlaschin:

The bottom line is that we missed the 90-day blackout. There is a federal law requiring all voter lists and all voter registration list maintenance to end 90 days prior to any federal election [*United States Code*, Title 52, Section 20507.]. Unfortunately, that maintenance was done two or three days after that blackout, which is why it had to be reversed. We had to make sure that those names were on the list, and then those people received ballots as they previously would have.

Assemblywoman Dickman:

What caused that delay?

Mark Wlaschin:

I do not have those details with me. I would have to confer with the Registrar of Voters of Clark County to find out the specific details. I will do so and get back to you in a timely manner.

Assemblywoman Dickman:

Thank you. I think it is really important to have that information.

Chair Miller:

Deputy Wlaschin, I would like to request that any information you send to specific members, please send to our committee staff, so we can disseminate it to members of both Committees.

Mark Wlaschin:
Absolutely.

Chair Miller:
We have a question from Senator Lange.

Senator Lange:
When we transition to a top-down system, will we get our results of the elections in a more timely manner?

Mark Wlaschin:
In regards to the top-down system, that will not affect the timelines associated with the election. There are numerous things a top-down voter registration system will help, but the current *Nevada Revised Statutes* (NRS) are what drive timelines for provisional ballots. The fact, for example, that mail-in ballots can be postmarked on Election Day mandates a certain amount of time after the election to allow those ballots to come in and then allow us to process them. There will still be a delay. It will likely be a day or two faster in regards to our ability to compare the provisional ballots against others to make sure that nobody is registered twice—that process will go a little bit faster—but there will still be a delay, and the results will not be certified on election night.

Senator Lange:
What other states around us have a top-down system—does California have a top-down system?

Mark Wlaschin:
It is my understanding that we are one of four states who do not have a top-down voter registration system. I will confirm that, though, and include that in the information that I provide to the staff.

Chair Miller:
I would like to let the Committee members know that we will have presentations from the county election officials on Tuesday. Some of the questions you have that are more specific to the elections may be more appropriate for those officials to answer and respond to then. We will take one final follow-up question from Senator Buck.

Senator Buck:
I can ask again on Tuesday when we reconvene. When I was out knocking on doors in a campaign, I would come across situations where I asked for a voter and the voter had passed away. It was a little awkward. That is what I was wondering about. Is there a statute, or is there something that is done to make sure that you compare or verify when somebody has passed away so that the person is removed from the voter rolls—like through the Social Security Administration or somewhere?

Mark Wlaschin:

Your question is ultimately about list maintenance and the process. To answer you directly, yes, we do coordinate with the Registrar of Vital Statistics of the Division of Public and Behavioral Health of the Department of Health and Human Services, the Social Security Administration, and the Department of Motor Vehicles to get the information about individuals across the state who are deceased, so we can remove them from the voter rolls. That is one process of many that are part of our list maintenance. I find that folks are surprised in some cases when we tell them that list maintenance is an ongoing, constant process. In fact, we did it last night; we do it every night. There are a number of agencies that provide information to us. We take that information. We make sure that we get it to the counties, and then they are able to act on it. There are other processes, including our involvement with the Electronic Registration Information Center program; they send us information every other month that also includes some of that information. There are numerous ways that we get this information.

As you have mentioned, there are clearly indications that there are people or individuals who are getting through the cracks somehow. That is something the Secretary of State has asked us to look at very critically to see if there is not a means for us to improve, or somehow ensure our list maintenance is being done properly and as thoroughly and effectively as it needs to be.

Chair Miller:

I do not see any other questions from Committee members. Again, I would like to thank Secretary of State Cegavske and Deputy of Elections Wlaschin for their presentation and for joining us today. With that, I will close this agenda item.

Our next agenda item is a presentation from the Commission on Ethics. We are pleased to have with us today Executive Director Yvonne Nevarez-Goodson and Commission Counsel Tracy Chase. Do you prefer that we wait until the end of your presentation to ask questions, or are there certain segments within your presentation that you would like us to stop for questions?

Yvonne M. Nevarez-Goodson, Executive Director, Commission on Ethics:

I am happy to take questions if something comes up in the middle of the presentation; otherwise, I think it will be a fairly brief overview, and I would be happy to take questions at the end.

It is my pleasure to present to you today an overview of the Commission on Ethics and the Nevada Ethics in Government Law [NRS Chapter 281A]. I would also like to introduce our commission counsel, Tracy Chase. Ms. Chase has been with the Commission for a little over six years. The reason for embellishing my introduction of Ms. Chase is that I have decided to take another position, so I am only going to be with the Commission for approximately another week, and she will become the face of the Commission in terms of any interactions with the Legislature, including any bill presentations that the Commission expects to put

forward. I cannot speak her praises enough. She is super tremendous, competent, and professional, and she has the utmost knowledge about the Commission's history and about where we expect and hope to go with the Legislature's input.

I would like to provide in today's presentation [\[Exhibit D\]](#) a general overview of the Commission on Ethics, including where we came from, why we have ethics laws in general, where the Commission stands right now with our existing caseload, and where we hope to go this session with the insights of our colleagues and legislators here in both of these Committees.

The Commission on Ethics is an eight-member public body [page 2]. Half of the members are appointed by the Governor, and half are appointed by the Legislative Commission. The members of the Commission on Ethics, like all other public officers in the state, are subject to the very ethics laws that they govern, and so the idea in its creation was political neutrality. In that vein, not more than four members of the Commission can be members of the same political party, and the idea was that they would not be allowed to be actively involved in political campaigns or political activities. They must also have some diversity of residency throughout the state, so we have no more than four members from any one county. We have approximately 145,000 public officers and public employees throughout the state and, with that general jurisdiction in mind, we have six full-time staff members, including me, a commission counsel, an associate counsel, an investigator, a paralegal, and an executive assistant. The entire role of the Commission on Ethics is to interpret and enforce the Nevada Ethics in Government Law, which is set forth in NRS Chapter 281A. Primarily, that chapter governs conflicts of interest for public officers and public employees.

Now for a little history about why we exist and where ethics laws come from. The Nevada Ethics in Government Law derived from the aftermath of the Watergate scandal in the 1970s. As a result, the federal government enacted the Ethics in Government Act of 1978 [*United States Code*, Title 5, Appendix]. The entire goal at that juncture was really to impose financial disclosures. They wanted the interested parties and public servants to disclose their financial interests so the public had an idea whether those making decisions were serving in the best interests of the public or lining their own pockets with their decisions. There are still some outliers that do not have an ethics commission, but most states and many local jurisdictions enacted their own versions of the Ethics in Government Act of 1978 because of Watergate. The Nevada Ethics in Government Law originated in 1975 [page 3].

Again, the original scope of ethics laws really had to do with financial disclosures. As things developed, they realized that the sophistication and diversity of financial interests were so complex that a simple financial disclosure was essentially ill-equipped to provide the transparency that was originally intended. Out of that frame of mind came an expansion of ethics laws—into what we now refer to as ethical standards of conduct—that are applicable to our public officers and public employees. The premise behind this expansion was to get back to the mission that this is a public service; it is a public trust, and we are not to engage in activities on behalf of the public that are for our own private interests. We wanted to

ensure that our public officials and public employees were acting impartially, that we were protecting government property and resources from personal use, that we were not engaging in inappropriate outside employment that would conflict with official duties, and that we were protecting government resources and interests from things like waste, fraud, abuse, and all of those things.

Since 1975, we have had a real evolution in ethics laws. What is most concerning to an agency like the Commission on Ethics is when we see studies come out that show a low trust in government. There are studies across the board, but this one from the Pew Research Center stood out because it indicated an historic low in the public's trust in government. [A hyperlink to the study, titled "Americans' Views of Government: Low Trust, but Some Positive Performance Ratings," is available on page 6 of [Exhibit D](#).] At the federal government level, this study showed that 20 percent of Americans had low trust in government, and only 2 percent expected our public officials to do the right thing "just about always" [page 6]. The Commission on Ethics looks at these types of studies, not because they are necessarily equal to what is going on in Nevada, but because the information emphasizes areas relevant to our mission. The studies help us to identify if there is something we can do better or something we could communicate differently to ensure that the public has more faith in transparency and in what we are doing on their behalf.

In that vein, there have been a lot of integrity studies conducted [page 7]. Each year, the Coalition for Integrity conducts a study that ranks states against one another in terms of many things. In 2019, the Coalition did a specific study on ethics enforcement and transparency, in which Nevada ranked eighth [*Enforcement of Ethics Rules by State Ethics Agencies: Unpacking the S.W.A.M.P. Index*]. I thought it was a tremendous accomplishment for Nevada to rank that high in terms of our enforcement and transparency. What is interesting about ranking eighth in 2019 was the fact that the Coalition looked at data from 2018 because our fiscal year (FY) 2019 data had not come out yet. In FY 2019, the Commission on Ethics saw a lot of growth—more than a doubling of its caseload, both on the advisory and complaint sides. I imagine Nevada's ranking would have been even higher had the Coalition looked at those statistics back in 2019.

In FY 2020, we got a new study from the Coalition [*States With Anti-Corruption Measures For Public Officials [S.W.A.M.P.] Index Report 2020*]. It again looked at ethics commissions and ethics laws across the board. In all those same categories, the Commission on Ethics ranked just as high as it did in 2019. However, the FY 2020 study implemented a review of other issues, including campaigns, elections, and multiagency factors, and Nevada came out ranking twenty-first amongst all the states. I am still encouraged by the outcome because the ethics questions asked in those studies really relate back to enforcement, transparency, whistleblower protections, and things of that nature.

Essentially, what we are seeing in government today is a reemergence of ethics laws. Most ethics laws were created 40 years ago, so there is a big emphasis on restoring the public's trust in government and where we are going from here [page 8]. We have seen some

interesting highlights in this area. The previous presenter noted House of Representatives Bill 1 of the 117th Congress, which is the first bill of the U.S. House of Representatives for the new Congress. One of the aspects of H.R. 1 is to strengthen the ethics rules for all public servants, and I think that really speaks volumes. This was a bill put forward in the last Congress [House of Representatives Bill 1 of the 116th Congress], and the House of Representatives is putting it forward again this year to hopefully pass with another emphasis on ethics laws, conflicts of interest issues, disclosures, financial interests, and so forth. There is also honorary Senate Bill 1 of the 117th Congress, which deals with ethical conduct rules for the U.S. Senate—again highlighting the importance of ethics and rebuilding the public trust in government.

One of the bills that you are going to see this year is Assembly Bill 65. I am just going to give you a teaser because we will obviously have a bill hearing on these issues. The real purpose and the Commission on Ethics' thought process in proposing A.B. 65 was to encourage additional due process and emphasize some whistleblower protections. There are some other procedural issues as well, and we will be happy to share those with you during the bill hearings or in response to any questions that you may have today.

Again, the entire mission of the Commission on Ethics is to enhance the public's trust in government and to ensure that our public officers and public employees commit to avoiding conflicts of interests between their public duties and their private interests [page 9].

In that vein, the Commission has fairly broad jurisdiction, and I thought it would be a good opportunity here today to explain that jurisdiction. For the purposes of the Nevada Ethics in Government Law, the Commission's jurisdiction is written as oversight over all public officers and public employees in the state of Nevada—so the state level all the way down to our local governments [page 10]. Of course, there are several exceptions. The first exception is our judicial officers, who are governed by the Commission on Judicial Discipline. There is also the Standing Committee on Judicial Ethics that assists judges and officers of the courts with questions for advice.

We also have a lot of public entities that serve as advisory bodies; this is mostly on the local level. Members of these advisory bodies are not deemed to be public officers under the definition set forth in NRS Chapter 281A if they do not have final decision-making authority and are essentially making recommendations to bodies who do make decisions.

Of course, the third exception is state legislators. The scope of the Commission on Ethics' jurisdiction over state legislators is limited. To the extent a state legislator is engaging in a core legislative function or conduct that is otherwise protected by legislative privilege and immunity, that conduct is governed by your own respective house ethics committee.

I will provide just a brief history of our evolution [page 11]. The Commission on Ethics has been reinstituted a couple of times. We were enacted in 1975, and in 1976, the Supreme Court decided the ethics law was unconstitutional because of a financial provision deemed to

be vague [*Dunphy v. Sheehan*, 92 Nev. 259, 549 P.2d 332 (1976)]. In 1977, the Legislature reenacted the Nevada Ethics in Government Law with clarification to the law and those financial disclosure requirements. Interestingly enough, the Legislature enacted two separate ethics commissions in 1977—a legislative ethics commission and an executive ethics commission—but they found both commissions were rarely meeting, the commissions were not funded, and the commissions were not as effective as they had hoped. In 1985, the Legislature came back, reinstituted a single ethics commission, and funded it, so it would be accessible and available to provide advisory opinions, interpret and enforce the Nevada Ethics in Government Law, and review complaints.

I think what is important, and something I would like to emphasize here, was there became a question about the distinction between the roles of the legislative house ethics committees versus the Commission on Ethics with regard to state legislators. There is a state constitutional provision that specifically discusses separation of powers issues [*Nevada Constitution*, Article 3]. I do not want to get too much into the legalese here, but it allows for each branch of government to essentially govern its own conduct. In 2009, the Supreme Court looked at this in *Commission on Ethics v. Hardy*, 125 Nev. 285, 212 P.3d 1098 (2009). The decision clarified the jurisdiction of the Commission; we would not have jurisdiction to oversee issues that related to core legislative functions. The most obvious examples of that are what you do here in the Legislature. You vote on issues, you introduce legislation, and you participate in speech and debate. All those things are core to the legislative function and, therefore, if there are allegations, concerns, or requests for advice by your own members, those would go to the respective house ethics committees.

Then in 2015, we saw Assembly Bill 496 of the 78th Session, which codified the principles of legislative privilege and immunity and protected both state legislators and staff from allegations of violations of ethics laws. Again, it would go to your own respective house if it were an issue protected by legislative privilege and immunity.

I highlight here on this next slide [page 12] a few of the legislative rules that apply to you. These are not up for the Commission to interpret or apply, but I did note earlier this week that you passed your new Assembly Standing Rule No. 23 and Joint Standing Rules on ethics [Legislative Code of Ethical Standards]. If there are questions about that, I would certainly defer to your own legislative counsel. This is an excerpt from your own rule [page 13]. Legislator's private interests include acceptance of gifts or loans, private economic or financial interests, and commitments to members of your immediate household or family.

I mentioned earlier that judges and officers of the courts are going to defer to the Commission on Judicial Discipline or the Standing Committee on Judicial Ethics for advice and enforcement. The standards of conduct that apply to judges—separate and distinct from the standards we have in the Nevada Ethics in Government Law—are going to be the judicial canons [page 14].

The Commission on Ethics is essentially responsible for four primary functions [page 15]. The first and most important to the Commission is our outreach and education. Much like we are providing in this presentation to you today, we are statutorily and otherwise responsible to provide this type of outreach to all public officers and public employees throughout the state. We do that regularly and in as many venues as possible—most of the time by invitation, but we are attempting to adapt to this virtual world and trying to provide these presentations and access to trainings on our website as well.

The second function is our advisory function. This is a process whereby any public officer or public employee can seek the confidential advice of the Commission regarding his or her own conduct. Typically, that comes in the form of someone asking: "Does this circumstance present a conflict of interest for me? If it does, is it disqualifying or is there some other action that can be undertaken to either avoid the conflict or overcome it in some sense?"

The third function we perform is our enforcement arm. This is the investigatory and adjudicatory process of the Commission whereby members of the public can file ethics complaints alleging that there has been a violation of the Nevada Ethics in Government Law by a public officer or public employee. This will trigger a number of procedural steps for the Commission and its staff. We first determine if the complaint is even sufficient to warrant an investigation. If an investigation is required, that investigation remains confidential until it proceeds to a determination by a three-member panel of the Commission to ascertain whether the evidence discovered during the investigation is sufficient to go forward for adjudication.

Finally, for our public officers including yourselves, we collect a form acknowledging statutory ethical standards. This form needs to be on file on or before January 15 after a general election, and we have different timelines for public officers who are appointed.

I thought this might be a good opportunity to show you trends in our statistics [page 16]. The first one is our outreach and education program. What I alluded to in terms of our program has really been the responsibility of the Executive Director to travel throughout the state providing presentations on the Nevada Ethics in Government Law—in particular, the merits of the laws, what they mean, and how they apply, and less so of what I am doing here today. You will see there is a slightly downward trend. Historically, we notice fewer trainings during years with legislative sessions, but I think the trend for FY 2020 and FY 2021 is attributable to COVID-19. We certainly had the requests out there, and I think having now been able to adapt to this virtual world, we will be able to provide that outreach and education virtually in the foreseeable future.

Again, our advisory opinions are confidential [page 17]. There is either a written submission to the Commission for an advisory opinion, or the Commission can conduct a hearing to render this advice. All requests for advisory opinion result in formal, written opinions that are prepared by commission counsel. These are not just one-page documents. These are

sometimes 30-page opinions that really vet the circumstances, and they do provide precedent for the Commission going forward. The idea is to publish them, so they can serve as advice for other people who might be similarly situated. If they are confidential, we publish an abstract.

I have provided you some more statistics here [page 18] that show the trajectory of the number of requests for advisory opinions that we have received and the number we are reviewing and vetting. We saw a significant uptick in the number of requests for advisory opinions during FY 2020. I find that encouraging because we obviously want to see requests for advice coming in rather than enforcement. It also highlights for us that outreach and education is going to be a priority because there are a number of individuals who have questions about the applicability of the Nevada Ethics in Government Law and who might be confronted with these conflicts. Ideally, we will be able to provide that type of outreach going forward.

Here is a little bit more about Assembly Bill 65 and what we are thinking of trying to do with respect to advisory resources [page 19]. The Commission has experienced—like every other agency in government with respect to COVID-19—some challenging issues. The first of which is that there is a statutory deadline for the Commission to issue these advisory opinions. With resources being as they are, we thought one opportunity that could really help our public officers and public employees is to allow the Commission's Executive Director and counsel to provide informal advice to individuals. That advice would have to be consistent with Commission precedent and subject to review by the Commission—and, of course, the Commission's opinions are subject to judicial review. We get calls on a daily basis where a public official has a meeting that evening and wants some advice about whether he or she has a disclosure and abstention obligation. Typically, we have to say, "We cannot give legal advice. You can request an advisory opinion." We can refer to a potential opinion that might be applicable, but sometimes the person wants a little more coverage than that, and we thought this could be a great resource for the public.

With ethics complaints, we are really looking at alleged conduct that is in contravention of our ethical standards of conduct [page 20]. We see prohibited government contracts, failures to disclose and abstain, and cooling-off violations as our primary issues for enforcement.

We have provided another chart [page 21] that shows statistics for the number of complaints received. It is interesting that FY 2019 was the first time we started to worry because we saw more than a doubling of our caseload on the complaint side; FY 2018 reflects what we were seeing in prior years. We saw a shortfall in FY 2020—I think because of COVID-19—but we also provided the first three quarters of statistics for FY 2020, which was pre-COVID-19. We were seeing the same trajectory that we thought we would experience in FY 2019 until things shut down. The more interesting statistic there is that, despite the number of complaints received, the Commission is accepting jurisdiction and directing investigations a good portion more each fiscal year. We have a significant number of ongoing investigations,

and you see in FY 2020 there were 48 active investigations. Some were from complaints received that year and some that carried over from prior years. We are seeing a high number of cases that are being investigated by commission staff.

I do not want to bog you down in the overview of our complaint procedures [page 22], but generally speaking, NRS Chapter 281A governs the filing methods, the process by which the Commission determines whether it has jurisdiction, and whether there is sufficient evidence to warrant an investigation. If jurisdiction is accepted and we conduct an investigation, the investigation is confidential. The investigation results in a recommendation to a review panel, which comprises three members of the Commission who are on alternating assignments to the panels, so it is never the same panel. The panel will decide whether the evidence is sufficient to go forward, whether there is insufficient evidence, or whether the conduct at issue is appropriate for a deferral agreement. A deferral agreement is not referred for adjudication, but we can enter into some sort of terms and conditions for corrective action, short of finding violations and imposing other penalties. Our panel determinations are the first instance in which a complaint case would become public and, in those circumstances in which a case proceeds to adjudication, that is a public proceeding as well. It is typically exempt from the Open Meeting Law [NRS Chapter 241] for purposes of the proceedings and the deliberations, but any final action taken by the Commission would occur in an open, public meeting with regard to any findings of violations or imposition of penalties.

The types of civil penalties that are outlined in NRS Chapter 281A include any type of corrective or remedial action [page 23]. We mandate ethics training in certain circumstances, we can impose mandates for public apologies or various public admonishments and censures, and we can also put certain conditions on future conduct. When it comes to willful violations [page 24], this is a separate assessment that the Commission must make about whether the conduct is so egregious that it warrants a financial sanction. Currently, a first willful violation cannot exceed \$5,000; a second, \$10,000; and a third, \$25,000.

I would like to provide a bit of clarification here with respect to any authority the Commission might have to remove a public officer or public employee from office. The Commission does not have that independent authority. We have a statutory obligation—it is a mandate under certain circumstances—to refer individuals for removal. For example, if it is a state constitutional officer or legislator involving an issue for which the Commission would have authority, we would refer that to the Legislature for impeachment proceedings. For local government officials and otherwise, there is a malfeasance system in place where we would refer that to the appropriate court for its consideration of whether removal was appropriate.

I want to emphasize the safe harbor provisions we have in existing law [page 25]. The Legislature has determined that it is appropriate for our public officers and public employees to reasonably rely on the legal advice that they are given by the lawyers who

serve those public agencies. The Commission views this as an asset. In other words, we are in partnership with the public attorneys in the various agencies to assist us with giving advice about the Nevada Ethics in Government Law. The turnaround time to get advice from the Commission can be lengthy, and often these issues are coming up on the fly, in the middle of a meeting. Our public officials and public employees need to be able to get this advice in a timely manner, so the Legislature—and this has been in the law for a long time—concluded that if there is reasonable reliance on the attorney, the Commission cannot find a willful violation of the Nevada Ethics in Government Law. Now, I note that distinction of willfulness. The question we often get is if someone can be construed to have violated the law and have other lesser penalties imposed. Currently, the answer is yes.

The Commission has really looked at this issue and, in Assembly Bill 65, is proposing to extend the safe harbor protections for all violations, not just willful [page 25]. We really want our public officials and public employees to be able to rely on the legal advice of the agency attorneys. Certainly, agency attorneys will get it wrong sometimes and they may not interpret it the same way as the Commission. However, if these individuals are seeking that advice and getting it before they act, we want them to be able to rely on that, short of a finding of a violation by the Commission. The Commission may still interpret the circumstance differently and issue an opinion, but it will not impose a penalty in those situations.

We have had some interesting cases over the last two years that resulted in some hefty and somewhat historical monetary sanctions from the Commission [page 26]. The total amount of sanctions from FY 2019 was approximately \$40,000. In our current FY 2021, we have already imposed about \$45,000 in penalties for misconduct. When sanctions are imposed, that money is deposited into the State General Fund and does not come back into the Commission's budget. We are seeing some interesting trends in terms of the type of conduct that has warranted willful sanctions.

On the substantive side for conflicts of interest between public duties and private interests, it really boils down to a misuse of one's government position for a private purpose [page 27]. In that vein, we have two types of private interests that will trigger conflicts for our public officials: financial interests and relationship-based conflicts [page 28]. This list of relationships is from the definition set forth in NRS 281A.065, which provides the types of relationships that could potentially create conflicts. That means if the interests of those individuals come before us in our public capacity, we potentially have a conflict. Again, it will not always be a disqualifying conflict, but we must recognize the potential for a conflict when these individuals come before us because we have such close personal relationships with them.

For the highbrow level of our standards of conduct [page 29], we cannot accept improper gifts or misuse our positions to obtain or grant unwarranted benefits. There are limitations on

government contracts. We cannot misuse or suppress nonpublic government information or improperly influence our subordinates or misuse government property. There is also a cooling-off period.

Disclosures and abstentions apply, of course, not only to public officers, but also to public employees [page 30]. We do not want public employees—any more so than we would want members of our governing bodies—to act in their official capacities in a manner that affects their private interests. Disclosure will be to the supervisory head of the organization if it is a public employee. If it is a governing body member, it will be a disclosure made in a public meeting when an agenda item is called. A disclosure is going to be for any matter that affects those interests we have already described.

Abstention—or what we often refer to as recusal or disqualification—on the other hand, should only occur in those clear cases in which there is a material effect on our private interests. We must recognize that when we are telling public officials they cannot vote on issues, that is a very significant decision. The legislative theory and history behind that is we do not want to divest the public of its representative voice in government, so we are only going to mandate abstentions in the clearest cases of absolute material conflicts. Sometimes these are judgment calls, which is why we have our advisory function and why we have our attorneys to represent us in these areas. In fact, most of our opinions boil down to this disclosure-abstention distinction.

For a quick overview of the cooling-off prohibitions, there is a one-year timeout for certain public officers and public employees who wish to leave their public service and work in the private sector [page 31]. The two primary areas are in the regulated industries and where we have vendor contracts. We do not want our regulated government servants to leave their government position and go work for the regulated entity or industry within that one-year period for certain positions. We also do not want individuals who are influential in awarding contracts to vendors to be able to award the contract and then be able to leave their government position to go work for that vendor within that one-year period.

We got a lot of feedback in the last couple of years about the applicability of our cooling-off laws [page 32]. There was a consensus requesting that we limit the applicability of the cooling-off provisions to essentially management-level employees. We did not want to capture rank-and-file employees. We really wanted to capture those who are instrumental in making decisions or who are charged with policy decisions and administration of these regulated entities, so we agreed to put forward that measure.

I think you might have seen my earlier statistic on the 41 advisory opinions that we received in FY 2020 [page 18, [Exhibit D](#)]. I cannot recall the number off the top of my head, but more than a majority of those 41 opinions came from public employees and public officers who were requesting relief from the Commission to go work for a vendor of their agency. The law as it currently stands says that someone who is instrumental in awarding the contract

cannot then go and work for the vendor [NRS 281A.550]. What it does not capture—and what a lot of the facts really portrayed to us in these advisory opinions—was that these individuals were nevertheless instrumental in administering the contracts, managing those contracts, and then leaving to go and work directly for those vendors. As a simple interpretation, if the public employees or public officers were not instrumental in awarding the contract, they were granted that relief—not necessarily relief, but we determined that the statute did not apply. This year we are proposing for your consideration whether we should also be capturing those employees and officers who are instrumental in managing or administering those contracts.

I would like to conclude with a general overview of what we will be presenting to you in Assembly Bill 65, other than what I have already highlighted here for you [page 33]. We have certainly seen the cost to our agency from COVID-19-related issues. The biggest one of which is that we have multiple statutory deadlines, and they are very difficult to achieve—not just because of emergency COVID-19 circumstances, but also because of the nature of complaints and advisory issues that come before the Commission. We simply need more time and appropriate circumstances to be able to address these issues. We are looking to streamline some of our processing, requesting some extensions of times, and looking at preliminary investigations, so we do not have to get into a full-blown investigation if there is nothing there.

We are focusing on some due process enhancements in terms of the statutory requirements for notice and discovery, and we want to enhance our complaint, or whistleblower, protections. Nevada sits uniquely amongst many states in that we allow requesters to keep their identity confidential if they are alleging conduct against someone within their own agency. The hiccup here is simply human error. The Nevada Ethics in Government Law says we have to provide a copy of the complaint to the subject, and sometimes we do not redact everything properly or someone's handwriting is inadvertently in there and gives away the identity of the requester. Ideally, we are looking to prepare more formal notices with the Legislature's support.

We have a few other topics here [page 33]. We want to ensure that our public officers and public employees are cooperating in investigations. Ninety percent of the witnesses to the allegations we are dealing with are colleagues of public officers and public employees, and we need their help to ascertain what is going on.

Here is one last highlight [page 34]. I want to emphasize what the Nevada Ethics in Government Law is not—there is a lot of misconception out there, presumably because of the word "ethics." We do not govern campaign finance and election law. As you saw from the previous presenter, those are governed by the Office of the Secretary of State. We also do not govern policy decisions. It is not our job to come in and second-guess decisions that are being made by governing bodies or different agencies. We get a lot of questions or calls

about that: "We disagree with this decision. It is unethical. You guys ought to go investigate that." That is simply not our role. We are only concerned about those policy decisions if they are made because of a private interest or to affect a private interest. It seems a bit silly, but things like rude behavior and laziness are calls we get a lot of as well, and clearly that is not going to rise to the level of oversight by the Commission. On a more serious note, sexual harassment questions and workplace discrimination are more properly vetted by agencies like the Nevada Equal Rights Commission and [unintelligible].

On the final slide [page 35], I provided our contact information. I would be happy to take any questions that the members may have.

Chair Miller:

Are there any questions?

Chair Ohrenschall:

I just wanted to compliment Ms. Nevarez-Goodson. I know she has worked hard to improve our standing among the other states regarding our ethics laws. It has been great to work collaboratively with you while serving as Chair of the Senate Committee on Legislative Operations and Elections last session and being in Chair Miller's seat when I had the great honor to serve as Chair of the Assembly Committee on Legislative Operations and Elections. I appreciate all your hard work on these issues. As you mentioned, it has been a long road since the 1970s—the first ethics laws and then going back and forth. I just wanted to compliment you on all your hard work.

Chair Miller:

Indeed. Do we have any other questions from members? [There were none.] That is the sign of a thorough presentation. I would like to thank you again, Executive Director Nevarez-Goodson and Commission Counsel Tracy Chase. I will close this agenda item and move to the next agenda item, which is public comment.

We will be limiting public comment to 30 minutes. As previously mentioned, those who wish to provide public comment are directed to preregister online so they have an opportunity to speak. Again, a few housekeeping rules: testimony during public comment is limited to two minutes per person; remarks should address issues that fall within the jurisdiction of this Committee; we appreciate and thank everyone for being respectful and courteous to all; and written remarks may also be submitted for inclusion in the meeting records.

With that, I will turn things over to Broadcast and Production Services of the Legislative Counsel Bureau to facilitate those who have registered and called in to give public comment. Is there anyone on the line who would like to make public comment?

Darla Lee, Private Citizen, Sparks, Nevada:

I am calling tonight to support Senator Buck and support fair and safe and clean elections. The Nevada Democrats passed Assembly Bill 4 of the 32nd Special Session in the middle of the night and ignored public comment. It was very disturbing to hear in the presentation earlier that everything was absolutely perfect with this past election because there is so much that has been refused to be investigated of documented criminal behavior in regards to the November election. For example, A.B. 4 of the 32nd Special Session allowed to be sent out—and this is from the person speaking earlier—over 100,000 ballots to bad addresses, which costs the state millions of dollars. Secretary of State Cegavske had access to at least 8,000 pages of evidence submitted in the Electoral College lawsuit, so why are you legislators not looking at these affidavits that document witnessing voter fraud in the election? I would also like to know: How did thousands of noncitizens vote in Nevada, as shown by their data subpoenaed from the Department of Motor Vehicles? Also, why are there still deceased people on the voter rolls? If it is such a daily thing that they are being taken off, why are there still so many—as evidenced in the last election of these deceased people, noncitizens, and nonresidents still on our voter rolls. I think you folks have a lot to do to provide us with a clean and safe election.

Kimberly Fergus, Private Citizen, Las Vegas, Nevada:

I am calling in support of Senator Buck for her fight for clean elections. Why are we even going down this route? I have in my possession affidavits, and I have tried to give them to the Secretary of State. She refuses to answer why she will not accept any of these sworn affidavits. I have personally talked people off the ledge from wanting to commit suicide because they are losing their voice to have fair elections. All we have left in this country is fair elections. I know one person in one family who has been here for 30 years, registered to vote at the same address. He went to go vote and, all the sudden, he had to do a provisional ballot. I called the Election Department in Clark County and asked, "Why are you making provisional ballots only to vote for the president?" I said, "These people have lived here 30 years." "Well, we came to that conclusion." I said, "What do you mean you came to that conclusion?" "Well, we thought it would be fair." This is wrong! I am sorry if I got off script, but listen you guys. I was there when A.B. 4 of the 32nd Special Session passed in the middle of the night. There were 4,000 public comments, and I stayed up all night, made public comments on the phone, wrote in, and stuff like that. [Allotted time was exceeded.]

David Gibbs, Private Citizen, North Las Vegas, Nevada:

I know you guys are just getting started, and I heard the previous two callers. My issue is that in 2018 and before, our elections were determined pretty much on election night. We knew who voted, we had counted all the ballots, and the decisions were final—with a few exceptions because of the closeness of the races and counting absentee ballots. We all saw the chaos that happened last year. A lot of that was due to the laws that you guys passed in 2019 and 2020, and I think you need to relook at those. I think you need to relook at the

fact that ballots in the past had to be accepted by the close of the polls. Now you are accepting ballots so much later. For mail-in ballots, if it is unsure what the postmark says, then you are accepting the fact that the ballot was postmarked before the close of election. That created some uncertainty.

There are a couple of other things that came up I think you need to look at. I cannot speak for the other counties, but here in Clark County when I voted in person, I had 100 percent verification of my signature before I was given a ballot. Had I voted by mail, I only had a 40 percent requirement. I think that is an unequal application of the law. You either verify the signature or you do not. I think that is something that you guys need to take a look at. Obviously, there has been a lot of discussion about the lists, but the longer that it takes the state to validate and verify the election, the more uncertainty it creates among the electorate. That is something you need to take a look at because the electorate needs to have confidence in the entire process, not just the balloting, but also the counting and the timeliness of it all. As you guys conduct your business, I think you need to consider those items.

Alida Benson, Private Citizen, Las Vegas, Nevada:

I am calling in to support the fight for clean elections. Every single Nevadan has an interest in clean elections and ensuring that each voter only gets one vote. This is not a partisan stance. Any politician who thinks that any amount of voter fraud is acceptable should have a higher level of scrutiny applied to his or her own campaign. I am concerned that, so far, the Secretary of State and this Committee have not followed up on the following incidents.

First, Assembly Bill 4 of the 32nd Special Session legalized assisted signatures, which allows ballots to be completed on behalf of those 65 and older and those who are incapacitated. So far, only Eureka County has complied with public records requests and reporting for ballot completion. How many ballots were signed by another person that were not reported or investigated? All Nevadans should stand against the abuse of our seniors, and I hope that this Committee stands with us.

There is evidence of vote buying on every Native American reservation in Nevada that is documented on video—this is a felony per NRS 293.700, bribery of elector. Why has the state not done anything about this? It is publicly available and was submitted to the Federal Bureau of Investigation, with whom the Secretary of State says she works.

Finally, Rosemarie Hartle lost her life to breast cancer in 2017, and someone stole her mail-in ballot, filled it out, and that fraudulent vote was counted. That cancelled out our vote, and what are you doing about it? How many fraudulent votes should we accept? I think none. I thank the Committee members for their time, and I encourage each member to do the right thing. Clean elections are bipartisan, and Nevada did not have a clean election. Be better and bigger than your party—say no amount of voter fraud is acceptable.

Carolina Serrano, Private Citizen, Las Vegas, Nevada:

I am calling in support of election integrity. When voter fraud hits close to home, it just hits a bit different. I went through hundreds of affidavits, and one of them in particular caught my eye because it had my brother's name on it. I looked closely, and it had his old address. When I looked through the data center, sure enough, somebody had voted for him with a mail-in ballot. I knew that he voted in person, so I let him know. His vote was provisional, and it was never counted.

I want to go back to the gentleman's presentation where he talked about election integrity becoming more complex, and I have to say that the reason why it is becoming more complex is because the safeguards are being taken away. It is very simple to vote. It is one vote, one person. Show up with your ID as an American citizen and cast your vote. That is all I have to say.

Melissa Clement, Private Citizen, Reno, Nevada:

I am calling to register my concern with the most recent elections. A fair and honest vote is protected very simply. Transparency, bipartisanship, consistent application of rules, and common sense are imperative when planning and executing an election. A fair election also requires that only those who are legally able to vote, vote. In the atmosphere of the pandemic, all this went out the window. Nevada had a robust and fair means to provide voter access through its existing absentee ballot system prior to the 2020 Primary and General Elections when the Nevada Legislature passed A.B. 4 of the 32nd Special Session in the middle of the night with very little notice and with little input from anyone.

My father passed away June 9—ironically, the day of the 2020 Primary Election in Nevada, for which he had cast an absentee ballot a week prior. His death was recorded at the Washoe County Health District, located at 1001 East 9th Street, Building B, on the first floor. Months later, he received his ballot from the Washoe County Registrar of Voters, located at 1001 East 9th Street, Building A, on the first floor. The buildings are a one-minute walk away, or a nanosecond via computer, yet somehow that information did not make it to the Registrar of Voters. Fortunately, my brother and I secured my father's ballot and made sure no one voted with it. After the election, I went online every day to make sure that no one—having seen his obituary in the papers—showed up to vote using his name. Not every bereaved family thinks of this. A previous caller mentioned the woman with breast cancer who died, and somebody voted her ballot—along with 1,506 other known people who were dead and voted in 2020. One illegal vote cast cancels out my vote. Thousands have obliterated my voice. How many fraudulent votes should we accept? I say none. [Allotted time was exceeded.]

Chair Miller:

Was that the last caller? [The BPS technician indicated he could attempt to reconnect two callers who were unable to connect previously.] That would be great. While you are trying to connect them, I would like to say again—because I am hoping they can hear me—they can always submit their comments in writing as well. [The callers did not connect after two more

attempts. There were no more callers.] I appreciate your going back to ensure that everyone who intends to speak has the opportunity to speak and be heard, and we have allotted enough time to do so, especially between individuals.

At this point, I would like to ask the members of our Committees if there are any additional comments? [There were none.] Then this concludes our meeting for today. Our next meeting will be Tuesday, February 9, 2021, at 4 p.m., again as a joint meeting, but Chair Ohrenschall will be leading us. With that, this meeting is adjourned [at 5:50 p.m.].

RESPECTFULLY SUBMITTED:

Jordan Green
Committee Secretary

APPROVED BY:

Assemblywoman Brittney Miller, Chair

DATE: _____

Senator James Ohrenschall, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a copy of a PowerPoint presentation titled "Elections Division Overview: Joint Committee on Legislative Operations and Elections," dated February 4, 2021, presented by Barbara K. Cegavske, Secretary of State, and Mark A. Wlaschin, Deputy of Elections, Office of the Secretary of State.

[Exhibit D](#) is a copy of a PowerPoint presentation titled "Ethics in Government Law: NRS 281A Public Officers and Employees," presented by Yvonne M. Nevarez-Goodson, Executive Director, Commission on Ethics.