

**A STUDY
OF THE
PRESIDENTIAL PRIMARY**

BULLETIN NO. 32

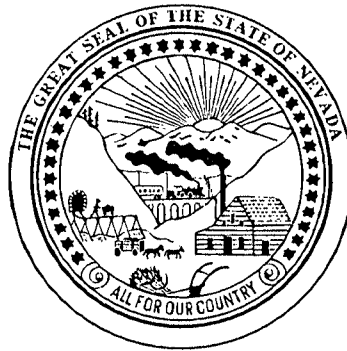


**Nevada Legislative
Counsel Bureau**

**DECEMBER 1958
Carson City, Nevada**

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NEVADA LEGISLATIVE COUNSEL BUREAU

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FOREWORD

The Nevada Legislative Counsel Bureau is a fact-finding organization designed to assist legislators, State officers, and citizens in obtaining the facts concerning the government of the State, proposed legislation, and matters vital to the welfare of the people. The staff will always be non-partisan and non-political; it will not deal in propaganda, take part in any political campaign, nor endorse or oppose any candidates for public office.

The primary purpose of the Counsel Bureau is to assist citizens and officials in obtaining effective State government at a reasonable cost. The plan is to search out facts about government and to render unbiased interpretation of them. Its aim is to cooperate with public officials and to be helpful rather than critical. Your suggestions, comments, and criticisms will greatly aid in accomplishing the object for which we are all working--the promotion of the welfare of the State of Nevada.

PREFACE

During the 1955 Session of the Nevada Legislature, the Senate adopted Senate Resolution No. 11 which memorialized the Legislative Counsel Bureau to study the feasibility and desirability of re-enacting legislation relative to a presidential primary for the State of Nevada.

Chapter 299, Statutes of Nevada 1953, known as the "Presidential Primary Law" was enacted by the 1953 Session of the Nevada Legislature. This act was repealed during the 1955 Session of the Legislature because it proved to be unworkable.

Under the provisions of Chapter 299, a presidential primary was held in June 1954. Because the campaign period between the primary and general election was almost twice as long as it had been in past years, a good deal of criticism resulted. As this study will point out, it is not necessary to hold a primary election in June in order to conduct a presidential primary once every four years.

This study begins with a general introduction to presidential primaries and their purposes. A history follows of the presidential primaries which traces its development from the turn of the century to present times with an outline of the various types employed by the states. The history of the movement in Nevada is also discussed. Arguments for and against the presidential primary are presented in a separate chapter and another chapter is devoted to the conflicts which existed in the 1953 Presidential Primary Law. The results of the study have revealed the various inadequacies of the 1953 act, and in legislation enacted by other states. In order that the Legislature be provided with a workable piece of legislation, there is a chapter with specific provisions to be contained in a suggested new presidential primary law for Nevada. A draft covering these suggested provisions will be found at the end of the study. The final chapter suggests a plan for financing of a separately-held presidential primary, which would not conflict with the date for holding the usual primaries.

This study was undertaken and completed by Mr. Arthur J. Palmer, Jr., senior research assistant for the Nevada Legislative Counsel Bureau. Mr. Palmer and the Legislative Counsel Bureau gratefully acknowledge the valuable assistance furnished during the course of the study by Dr. Paul T. David, Director of Governmental Studies of the Brookings Institution; Mr. William L. Frederick, Assistant Director, The Council of State Governments; Mr. William B. Welch, Director of Research, Democratic National Committee; Mr. Richard H. Hansen, College of Law, University of Nebraska; Dr. Bruce B. Mason, Associate Professor of Political Science, Department of Political Science, University of Florida; Mr. Richard S. Childs, Chairman, Executive Committee, National Municipal League; Mr. Russell W. McDonald, Director, Statute Revision Commission, State of Nevada; Dr. Louise Overacker; John Hay Whitney, Visiting Professor of Political Science, Bethany College, Bethany, West Virginia; Mr. Floyd E. McCaffree, Director of Research, Republican National Committee; The Honorable Alan Bible, United States Senator, Nevada; the Nevada State Library and the University of Nevada Library.

Copies of this study may be obtained without cost from the Nevada Legislative Counsel Bureau, Carson City, Nevada.

J. E. Springmeyer
Legislative Counsel

SENATE RESOLUTION NO. 11 - 1955 SESSION

Senate Resolution No. 11 - Memorializes the Legislative Counsel Bureau to study presidential primaries, in cooperation with certain persons.

WHEREAS, Chapter 299, Statutes of Nevada 1953, establishes presidential primaries in the State of Nevada; and

WHEREAS, It appears that certain administrative provisions in the afore-said Act are unworkable; and

WHEREAS, The presidential primary is a twentieth century development toward popular control of government paralleling the initiative, referendum, recall, and the direct primary; and

WHEREAS, Twenty states have some form of presidential primary; and

WHEREAS, The question of presidential primaries is a matter of nationwide interest at this time; and

WHEREAS, A study of presidential primaries, with the view of recommending a sound, workable presidential primary law for the State of Nevada, would be of inestimable value to the Legislature of the State of Nevada; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the Legislative Counsel Bureau be memorialized to study the entire problem of presidential primaries, and the feasibility and desirability of a presidential primary law for the State of Nevada; and be it further

RESOLVED, That such study be made in cooperation with the Attorney General, the Secretary of State, the various County Clerks, and other interested persons in the State of Nevada; and be it further

RESOLVED, That a report relative thereto be presented to the next regular or special session of the Nevada Legislature for study and consideration.

CHAPTER I

AN INTRODUCTION TO THE PRESIDENTIAL PRIMARY

General Principles and Objectives

The presidential primary is an extension of the general primary election philosophy for the purpose of including the people's voice in the nomination of a candidate for president. One has only to reflect upon the antics, parading, screaming, and utter chaos which dominates the national convention picture to wonder what manner of democracy is at work. Is it the careful tabulation without undue confusion of the wishes of the states through their delegates? And a further question might be raised. By what authority have the delegates to these wild affairs been chosen? Have they been chosen by the voters, or by some pyramid of precinct, county, and state conventions, devoid of most democratic proceedings or voice of the voting public?

To the end that the man in the street would have an opportunity to express himself, and indicate through election machinery his views on who should be the man to lead the party, the presidential primary was developed. Without the presidential primary, as any man vaguely cognizant of the machinery knows, presidential candidates are largely chosen by the "few" who barter with their strength in smoke-filled rooms, each trying to improve his political position by the age old game of machine-party politics. By such antiquated and wholly undemocratic methods, presidents of the greatest democracy the world has ever known are selected; presidents who preside with their executive authority over a nation that is looked upon as a leader in the very survival of democracy, but who must by the rules of the game divide the spoils because of the very nature of the obligations incurred in those smoke-filled rooms. These presidents have clearly less obligation to the voter than they have to the undemocratic machinery that placed them in their executive position. The presidential primary is specifically designed to thwart such obligations to the extent that the presidential candidate of his party shall have received a direct mandate from the people of the several states, voiced through chosen delegates who have carried the preference vote of the people from a direct and fully democratic proceeding; a presidential primary election within their own state.

The extension of democratic processes of nomination for the highest office of the land is well expressed by H. R. Penniman in Sait's American Parties & Elections.

"The presidential primary represents an attempt to short-circuit the elaborate system of wiring and to deliver the full load of the current-- the full force of the popular will-- without the fatal leakages that had occurred along the old defective lines of transmission."

The primary election system has become an established institution in the United States. It has proved successful in the democratic selection of national

representatives, state and local officials, and should be extended to include the most important of nominations, that for the presidency. The presidential primary system is a permit for the people to participate directly in the choice of nominees. Representative government achieves democracy through the broadest possible participation in the selection of elected officials. Senator Kefauver emphasized this in his statement:

"I think the crying need in this country is for more democracy--not less--in the selection of party candidates. The people want to have a hand in the naming of our candidates. I am willing to rest my case with the people. I believe that their choice, whatever it might be, will be the correct one-- if they are given a chance to make that choice."

The feeling of resignation and public apathy which exists regarding nominations for the presidency are directly attacked under the system of presidential primaries. An electorate that knows it possesses responsibility is most apt to act efficiently under the presidential primary system. Voters seldom know how to operate through a caucus system or open conventions, but DO understand the system of voting by means of the ballot.

The extension of the primary system to the national level through the presidential primary poses a difficult problem. The presidential primary must be dealt with separately by each state since there is no provision at the federal level for mandatory and uniform action. Many states have never passed legislation that would permit political parties to hold presidential primaries so today there exists no comprehensive procedure for nominating candidates for the presidency through presidential primaries. As more states adopt the direct method for selection of political party nominees for the presidency, gradually a more democratic method will supplant the existing undemocratic procedures found in states where the party voter has so little say in presidential nominations.

The various states have developed different methods for establishing presidential primaries, and they fall into five rather broad categories. These five types can be grouped under two general kinds of presidential primaries, as shown in the outline below. The initial breakdown is dependent upon whether or not the party voter has an opportunity to express a preference for his nominee for the presidency. Under (B), where this opportunity is afforded the voter, the primary is more correctly known as a presidential preference primary. This is most commonly used by the states today. The alternative still presents the party voter with the opportunity of selecting a presidential candidate but limits him to the selection of delegates only, thus indirectly voting for his favorite presidential candidate. Though the fullest development of the presidential primary is reached specifically through the 5th method under (B), both general kinds of primaries are known as presidential primaries. The listing which follows is an outline of the five categories grouped under the two main divisions.

Types of Presidential Primaries Among the States

These are broad classifications and can be further broken down with some delegates at large being elected by convention, and with the non-mandatory status of the primary in some states. Also, there are other variations,

(A) No preference vote for presidential candidate; however, delegates are elected to the national conventions: (1) Direct election of unpledged delegates; (2) Direct election of delegates who may be pledged.

(B) Preference vote for presidential candidate: (3) Delegates are elected through old convention system; (4) Direct election of unpledged delegates; (5) Direct election of delegates who may be pledged.

Variations among these types are as follows:

(1) In some states the voters elect only the district delegates from the congressional districts, the delegates at large and their alternates are chosen by the state party committee or state party convention.

(2) In some states the presidential candidates involved must assent to having their names used by delegates, some require no consent.

(3) Names of the delegates may not appear on the ballot although a person votes for them indirectly by voting for his choice of presidential candidate. A vote for that candidate is a vote for a certified slate of delegates pledged to him.

(4) In some states the presidential primary is optional; in most of the states it is mandatory.

(5) This optional feature is sometimes applied to delegates at large where the party may or may not elect them.

(6) In some primaries only one party participates either by law or by choice.

(7) The dates on which the primary elections are held differ from state to state. Some are held on state primary days; others on a separate date.

(8) Access to the ballot differs from state to state for both the delegates and the candidates for president, ranging from write-ins to petitions.

(9) Great differences among the systems exist in the strength with which delegates are bound in the event they are a pledged delegation. These differences range from broad discretionary powers to mathematical directives applied at the conventions, during the balloting.

(10) Delegates may be elected from districts by either the vote of that district alone or the vote of the whole state. In some states the delegates at large far outnumber the district delegates which modifies any differences existing in the system.

(11) Provisions are made in some states that delegates must support the winner of the presidential primary in that state regardless of their own desire. These delegates may or may not have been pledged openly for a specific candidate.

(12) Delegates may be required to show both a first and second choice for presidential candidate on the ballot.

Table No. 1 shows the present status among the states and territories as to the type of primary they have.

T A B L E 1
STATES HAVING PRESIDENTIAL PRIMARIES - METHOD OF SELECTION OF DELEGATES TO NATIONAL CONVENTIONS

State	(1) Delegates <u>selected</u> at state or district conventions or by state executive committee	Type (A) 1 and 2 (2) Delegates <u>elected</u> at <u>primary</u> with NO presiden- tial candidate involved	Type (B) 4 and 5 (3) Delegates <u>elected</u> at preferen- tial <u>presidential</u> primary where choice for president expressed by voters				Type (B) 3 (4) Delegates elected at state convention but <u>separate prefer-</u> <u>ence presidential</u> <u>primary</u> where choice for president expres- sed by voters
			Yes/ No	Is Vote Binding	Are Dele- gates Pledged	Consent of Can- didate Required	
Alabama	Conventions when no contest	Either party when con- test among delegates	Yes-				
Arkansas	State Committee		No				
California			Optional				
District of Columbia		Yes	Yes	Yes	Yes	Yes	
Florida			No			No	
Georgia			Yes	No	No	No	
Illinois			Optional				
	State Convention for delegates-at-large		Yes	No	No	No	
Indiana	State Convention		No			Yes	Yes
Maryland	State Convention		No			Yes	Yes
Massachusetts			Yes	No	No	No	
Minnesota	State Convention for delegates-at-large		Yes	Yes	Yes	No	
Montana	State Convention		No	No	No	No	Yes
Nebraska			Yes	No	No	Yes	
Nevada (1953-1955)			Yes			Yes	
New Hampshire			Yes	No	No	No	
New Jersey			Yes	No	No	No	
New York	State Convention for delegates-at-large	Yes					
						No	
Ohio			Yes	No	No	Yes	
Oregon			Yes	Yes	Yes	No	
Pennsylvania	State Convention for delegates-at-large						
			Yes	No	No	No	
South Dakota			Yes	No	No	No	
West Virginia			Yes	No	No	Yes	
Wisconsin			Yes	Yes	Yes	Yes	
Alaska Territory	Delegates Selected or Appointed		No	No	No	No	Yes

CHAPTER 11

HISTORY OF THE PRESIDENTIAL PRIMARY

The National Picture

The development of the primary into the presidential type took place shortly after the turn of the century. The State of Wisconsin (1905) was the first to enact legislation providing for presidential primaries for political parties. The Wisconsin law provided for the direct election by the people of the state, at a presidential primary of all the delegates to the national conventions. Similar legislation followed in Pennsylvania (1906) and South Dakota (1909). In various years, since 1908 the District of Columbia has held unofficial presidential primaries at which delegates have been selected to attend national conventions. The first presidential primary laws provided only for the election of the delegates to the conventions. The preference feature of the presidential primary awaited the action of the Legislature of Oregon in 1910. The Oregon feature allowed for the expression of a choice from among presidential candidates in the political party primary, as well as a selection by the voter of the specific delegates to the convention. Following the example of Oregon, a great number of states adopted the preferential form of the presidential primary and those who had laws not allowing for the preference feature amended their laws to provide for such voter expression. In 1911, California, Nebraska, New Jersey, New York, North Dakota, and Ohio passed legislation of some type which provided for a presidential primary, largely along the lines of a preference contest, and in most cases, providing for a selection of delegates also.

By 1912, Illinois, Maryland, Massachusetts, Michigan and Montana passed presidential primary legislation, followed in 1913 by Florida, Iowa, Minnesota, New Hampshire and Texas. Optional types of presidential primaries such as Georgia and Alabama date from 1914 and 1915 respectively. In 1915, Indiana, North Carolina, Vermont and West Virginia climbed on the band wagon. By 1915, the presidential primary movement attained the height of its popularity with laws having been passed for some type of a primary in 26 states and the District of Columbia.

The major political parties acknowledged the presidential primary movement by the following independent action. The Democratic Party accepted the method of delegate selection to its convention in 1912 and was followed by the Republican Party Convention in 1913.

It will be noted that in the early operation of the primary, not only were the number of states represented equal to over half the total states, but states were included among those with presidential primaries which represented the most populated and having the greatest number of delegates to the conventions. In theory then, the control of the conventions fell into the lap of the delegates elected at the presidential primaries, or at least delegates who could follow the preference vote of the people of their state.

Predictions were common among political leaders that it would be only a matter of a few years before substantial percentage of the delegates to the conventions would come from states with presidential primaries, and that, in effect the horizon could be seen where the conventions, for the practice of selecting a presidential candidate, would become much like an electoral college, meeting for the purpose of recording the wishes of the states. However, it should not be overlooked that the conventions function in other capacities than such a formal delegate count. They must select a Vice President, busy themselves with matters

of policy and platform planks, campaign strategy, ironing out party differences, and reapportionment of delegates to the next convention. These issues cannot be decided by the casting of a formal vote indicating the results of presidential primaries in the states. The conventions would not then be supplanted by a new system, but given a large measure of democracy and better control by the real party members with specific reference to a choice of a presidential candidate.

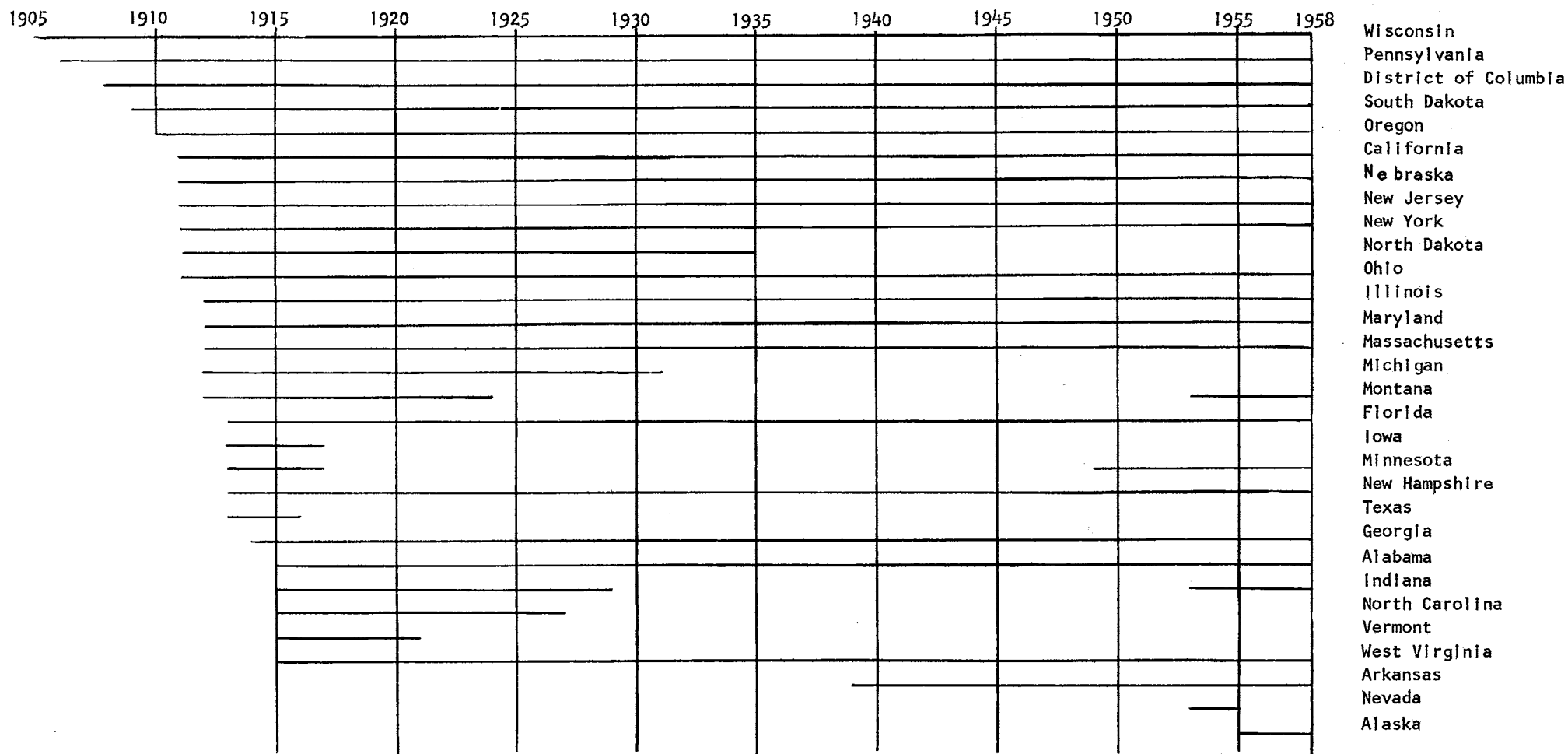
President Woodrow Wilson and others have suggested that in order to bring some measure of uniformity to the maze of different presidential primary laws among the states, a national law be established by a constitutional amendment providing for a presidential primary system. Although such legislation has been introduced over fifty times in the United States Congress, states are reluctant to give up their rights to the manner in which they conduct elections. Two of the most recent proposals before Congress have been the Douglas-Bennett bill and the Smathers proposal. It is unlikely that national action will be taken. However, the very introduction of such proposals points up the existing problem.

Casual observation of the rapid and almost explosive growth of the presidential primary immediately prior to World War I would lead one to conclude that it would most certainly attain a permanent and fundamental change in the manner of selecting candidates for president. The record from 1916 on shows a considerable recession in the movement and a point of almost stagnation and retreat was reached by the time the great depression of 1929 hit the nation. In 1916, Texas found its law to be unconstitutional, and in 1917, Iowa and Minnesota repealed their laws, followed by Vermont (1921), Montana (1924), North Carolina (1927), Indiana (1929) and North Dakota (1935). None of the states repealing their laws were those of first rank in population (delegates); however, a trend was apparent which needs explanation even more necessary than the fact that only one new state, Arkansas (1939), passed presidential primary legislation between 1920-1950. Why should there be such a wholesale abandonment of presidential primary legislation after its wildfire acceptance by the state legislatures?

The decline in importance and impact upon the national conventions lie in the primary laws themselves and the haste with which many of them were fabricated along with ulterior motives for passage. The trials connected with their actual usage pointed up so many ineffective provisions and ambiguities that they collectively were "eye-wash," as stated by former President Truman. That the situation has been corrected in any significant measure cannot be said without considerable reservation. The failure of the state laws collectively to have any great effect upon the conventions was very disappointing to backers of the presidential primary movement, and the manifold complications of designing legislation which would make a primary effective were only slowly being resolved by trial and error methods of legislation. When it became known just what provisions were obviously nonworkable and undesirable, and those which could vastly improve presidential primary legislation, there was little enthusiasm left to add sufficient steam to the boilers. It awaited a revival for specific reasons at mid-century before any constructive work could be accomplished in the form of legislation.

C H A R T 1 ALL TYPES OF PRESIDENTIAL PRIMARIES INCLUDING OPTIONAL LAWS

SHOWINGS OF DATES OF ENACTMENT AND REPEAL BY STATES, TERRITORIES AND DISTRICT OF COLUMBIA



Possibly one of the most important reasons for the loss of interest in the presidential primary movement between the First World War and the mid-century, lies in the fact that not enough states provided for the selection of delegates by the primary method, thereby making the presidential primary system ineffective and seldom having any control of the presidential nomination at the conventions. That this should constitute any broad condemnation of the presidential primary theory itself is shortsighted. In fact, the presidential primary has never had a clear opportunity to provide evidence regarding its effectiveness in the transmission of the will of the party voter to the floor of the convention. The passage of presidential primary legislation by more states will insure that such will be the case. Nevada should not necessarily wait for the occurrence of the turning point, but should initiate action on its own to bring about that very occurrence.

With the host of inadequate provisions, non-mandatory language, or complete lack of some basic provisions, it might be suggested that the whole period of fabrication of presidential primary laws was a laboratory experiment. The experiments showed that indeed the states were wrestling with a highly complex problem and the laws themselves would have little value except as they might point out to future legislatures the obvious errors and weaknesses of systems that had been tried.

There presently exists a strong revival movement among the states to enact legislation providing for presidential primaries with a great number of bills being introduced in several legislatures. The recent passage of presidential primary legislation by Minnesota (1949), Montana (1953), Indiana (1953) and Nevada (1953) emphasizes this revival. In addition, the District of Columbia (1955) and Territory of Alaska (1955) laws now require the election of their delegates by a presidential primary.

The reasons for the revival and renewed interest in presidential primaries fortunately centers about the awareness by the average voter that all is not as it should be with regard to National Conventions. Pointing out this obvious lack of democratic procedure has been the forceful exhibition by the medium of television to the vast audience of the voting population. The ability to see with vivid reality the incomprehensible display of chaotic proceedings connected with selecting our chief executive has resulted in a reappraisal of the whole procedure. Who are these delegates representing the television audience? Do they represent the thoughts of the viewer on such a momentous decision?

Revival has also been inspired by the threat to candidates with significant popular support being denied any real consideration by the convention party machinery. A presidential primary system with the voter in more direct control would obviously alleviate these conditions.

Further interest has stimulated action regarding presidential primaries by their actually being used as they were intended by the candidates themselves in the primaries of 1944, 1948, and 1952 where candidates openly solicited the support of voters and also where a great surge of public opinion made itself vocal through write-in choices. Candidates such as Kefauver, Taft, Stevenson, Eisenhower, Wilkie, Stassen, and others have received indications, in the presidential primaries of several states, which have decided their future actions and have had considerable influence on the conventions themselves.

Interest has also been stimulated by the recently introduced legislation in the United States Congress as to a mandatory presidential primary to be held in all the states as some solution to the confusion and undemocratic methods now in effect regarding delegate selection to the conventions. Possibly of greatest significance is the voter himself who has shown a decided interest in recent presidential primaries. Witness the sharp rise at mid-century in participation between 1948 when 3,622,117 votes were cast and 1952 when 10,735,122 votes were cast in the presidential primaries.

The Nevada Story

The history of the presidential primary movement in Nevada dates back to 1912, when the Democratic Party of the state held a presidential preference vote in connection with their May 14 primary election which elected 196 delegates to the Fallon convention of that year.

The authority at law under which the presidential preference primary was held is contained in the broad interpretation granted to political parties under Chapter 18, Statutes of Nevada 1883. Section 1 of that Chapter provides that a political party may call for a primary election, and that a resolution making such a call shall contain "the object for which the election is called."

Further reference to authority to hold a presidential primary is contained in Chapter 165, Statutes of Nevada 1911, where provision is contained in subsection 2 of Section 2 which reads as follows: "...nor shall it be construed as restricting or affecting the right of political parties to hold, under existing laws, which are hereby continued in force for all such purposes, primaries and conventions for the selection of delegates to national conventions."

Under actual application of the existing laws in May of 1912, there existed no provision for the holding of presidential primary elections. Evidently, this was not apparent to Democratic leaders or officials of the state. This peculiar situation arose by action that evidently the Legislature itself was not aware of when in 1911, at the same Session of the Legislature that passed Chapter 165, there was repealed the older Chapter 18 of 1883. The provisions of Chapter 165, as given above, made reference to authority granted under a chapter which was itself repealed at the very same Session of the Legislature.

In any event, the presidential preference primary was held with the preference feature only two years old, having been introduced by Oregon in 1910. The voters of the Democratic party were able to express their preference at the polls on May 14, 1912, from among four national figures (Clark, Harmon, Underwood and Wilson) who were in the field as candidates for the Democratic party nomination for president of the United States.

The results of the presidential preference primary held in Nevada in 1912 gave a heavy preference vote to Clark, which carried all the counties of the State except Ormsby and White Pine. In calling for the presidential primary election, the Democratic State Central Committee failed to specify whether the total preference vote of the State would be binding upon the delegation selected to be sent to the Baltimore Convention, or whether the preference vote within each separate county would decide through the election

of delegates at the county level. It would have made little difference in either event since the slide was so much in favor of the one candidate. With the failure of the Committee to indicate which method would be used, there ensued a heavy fight to secure not only a large turnout for the several candidates but also maneuvering to insure the election of delegates at the county level.

Practical effect of the presidential preference primary held was the knowledge well in advance of the June convention at Fallon, that the Nevada delegation to the National Democratic Convention at Baltimore would be pledged to the support of Clark. This mandate was given the Democratic party by its own voters, who indicated their preference for a presidential candidate and at the same time selected a list of delegates pledged to his support at the Fallon convention. Quotation is made from the Reno Evening Gazette the day following the primary election as follows: "Champ Clark yesterday carried Nevada in the Democratic primary and will have a large percentage of the delegates at the Fallon convention on June 3 -- with the result that he will undoubtedly secure the pledged delegation to the National Democratic Convention."

This action taken by the Democratic party places Nevada among the very first states to make use of a presidential preference primary election. Specific legislation awaited the action of the 1953 Legislature, forty-one years later.

At the 1953 Session of the Nevada Legislature, the desirability of enacting a specific presidential primary election law was realized. In recognition of this, Chapter 299, Statutes of Nevada 1953, was enacted into law, and provided for the holding of presidential primaries in the state every four years, thus making possible the direct voice of the party voter in the selection of a presidential candidate at the state level. The action taken by the Legislature was possibly in correlation with that taken at the 1952 Democratic State Convention which met in Wells on May 10 of that year. The convention specifically endorsed a proposal for the enactment of a presidential preference primary in the State.

Unfortunately, insufficient study was given as to what type of a presidential primary would best fit the needs and requirements of the Nevada situation. Presidential primary legislation has proved to be one of the most difficult types of law to design. Many states have found that their attempts were inadequate, confusing, unconstitutional, and inoperative. That a legislature would pass a law providing for a presidential primary without extensive study of the subject almost insures that the law will prove to be far from the actual desires and intent of the legislators.

The presidential primary legislation of other states is most difficult to adapt to the requirements of a state which is contemplating such a primary law due to the ramifications of primary legislation existent within the state. Not only may obvious conflicts arise between primary laws and newly adopted presidential primary laws when such a method is employed, but the type of primary held in other states may be basically undesirable. There are only broad generalizations that bind any group of existing presidential primaries together when considering the major features of them. They all differ when consideration is made of their other aspects within any general classification. Further, it is frequently necessary to provide for conditions peculiar to a particular state which certainly could not be found in existent legislation.

Under the press of time and in the absence of any real investigation, the Nevada Legislature seized upon legislation in the State of California as the foundation for the Nevada presidential primary law passed in 1953. The California law is not recognized as being one of the most desirable types by authorities on the subject, and does not incorporate many of the modern features which should be a part of such legislation. As incorporated into the Nevada presidential primary, various conflictions within the act became apparent as well as general conflict with existent Nevada primary law.

Many of the provisions of the Nevada presidential primary law are in direct conflict with provisions within itself, which precludes its workability. Further, although many of the provisions of the law as passed are not in direct technical conflict with provisions of the general primary law, they are so constructed as to make most difficult the operation of the law by the secretary of state and the county clerks of the several counties.

In order that the holding of the presidential primary would not cause excessive added expense to the counties, the general primary was advanced to June to accommodate the time at which it is necessary to hold a presidential primary. Thus, the two primaries could be held in conjunction, with the same personnel, ballots, and machinery being used for both elections.

The advance in date for the general primary proved to be unpopular with the politicians of the state since the period of campaigning was thus extended a greater number of months. As this study points out, it is not necessary that the two primaries be held at the same time. In the case of the State of Nevada it might be desirable to hold them separately in any event, excluding consideration of the political objections. With Nevada's small population and the ease with which the state may be covered in a campaign, compared to her more densely populated sister states, a drawn-out campaign is questionable in the best interests of both voter and campaigner. Certainly a short campaign period contributes to more efficient government by limiting the necessity for incumbent officers to be absent from their duties.

Immediately, there arises the question of the added expense of holding separate primaries. This expense, and the providing of funds for separate primaries, is contained elsewhere in this study. And further, the provisions for payment of funds to hold the presidential primary separate from and earlier than the general primary, are specifically designed to effect a valid mandate from the voter through a high percentage of voter participation.

At the 1955 Session of the Nevada Legislature, the various conflicts at law were pointed out, as well as the provisions which made difficult the execution of the combined primaries. The mistakes made in the hasty application of legislation in 1953 came home to roost, along with the experience of the advanced primary date and the implications of that advance having been tangibly experienced in the interim year of 1954. It became evident that the presidential primary law should be revised extensively, or repealed in its entirety. In the absence of any real constructive provisions

that might have made the presidential primary law of 1953 a workable measure, the legislature enacted into law Chapter 304, Statutes of Nevada 1955 which repealed the law in its entirety.

In closing then, the history of the presidential primary in Nevada is restricted to two specific instances. The first experience with such a primary was in 1912 when an actual presidential primary was held by the Democratic party, under broad interpretation of law, and was completely effective in voicing the desires of the party members with respect to a delegation being sent to the National Democratic Convention pledged to the support of the preference they had indicated at the presidential primary. The second experience came in the interim between 1953-55 when there existed in the election laws of the state specific provision for holding a presidential primary. In this second case, however, the presidential primary provisions were never used since the two year period fell between presidential election years. The law served only to advance the date of the general primary election in 1954, which was held in the absence of the presidential primary feature.

The 1955 Session of the Legislature, which repealed the presidential primary law, realized that further consideration should be given by the Legislature to some form of presidential primary, and took action at that same Session to insure that such democratic legislation would be reconsidered at a future session. In compliance with Senate Resolution No. 11, this study has been developed.

CHAPTER III

ARGUMENTS FOR AND AGAINST THE PRESIDENTIAL PRIMARY

Arguments in Favor of a Presidential Primary

Correction of the present convention and committee systems is the principle reason favoring a presidential primary system. The first section of this chapter is concerned with the denial of the party members' effective voice at the national conventions of the political parties. The following section is devoted to the criticisms of the undemocratic practices at the local, county, and state level.

Abuses of the National Convention System

The points which follow have unquestionably become part of the American scene. However, this should not confer any sanctity based on the theory that since they have been operable in the past, their continuance is necessary or desirable.

(1) Public confidence tends to be destroyed under the present system of national conventions. With the clamor and parading, convention demonstrations seem a far cry from the orderly democratic proceedings which should be a part of the nominating process for the highest office in the land.

(2) Since there has been television coverage of the national conventions, the confusion incident to these pseudo-democratic assemblies has been projected directly into the homes of millions of our citizens. In the eyes of these citizens, this aspect of these proceedings nearly eclipse the serious business.

(3) Nominations for the presidency at conventions, where the delegates have not been elected to the conventions in presidential primaries, are often the result of barter and trade for cabinet jobs and other high governmental positions. This practice would be difficult, if not impossible, if all delegates were pledged to support the candidate favored by voters in presidential primaries.

(4) The conventions must provide the machinery for counting delegates' votes in accordance with the dictates of the presidential primaries, if it is to survive and merit public confidence. The system used to count votes in the present electoral college would be preferable. The conventions can render valuable service by offering a sounding board on such matters as the selection of a candidate for the vice-presidency, refinements of the party platform, campaign strategy and reapportionment of delegates for the next convention.

"The fact that many of these abuses have been practiced for years does not impart to them a sanctity which defies either criticism or attempts to eliminate them. They do not have a place in our law comparable to custom under the common law, regardless of what some proponents of the convention system maintain. In fact, their continued practice can only lead to further public disfavor with the nominating process as a whole and could conceivably lead in a moment of high indignation, to a drastic overhaul which would go too far in restricting convention operations. It is time for thoughtful people whatever their positions, to consider making some change...". An excerpt from Serious Circus, The National Convention, written by Richard H. Hanson.

The Pyramid of Local Conventions

Political scientists agree that the presidential primary system is a

far more democratic method of choosing convention delegates than is the present multiplicity of meetings and caucuses which select almost two-thirds of the delegates to national conventions.

(1) Present practices in states where there is no presidential primary, have little relation to the public will. Frequently, these proceedings are secret, informal and unregulated. Party leaders in many states have almost unlimited opportunity to thwart rank-and-file desires. Such chaotic conditions call for drastic revision by instituting the presidential primary system. At best, diversion of public will at the state level causes national political conventions to be boss-ridden travesties. Journalist David Lawrence emphasized this in the following statement:

"Many people do not realize the extent to which political oligarchies meeting in smoke-filled rooms, influence the nominating processes from beginning to end."

John C. Calhoun stated the case in 1844, prior to the institution of the presidential primary. This still applies in many states today.

"The delegates to the national convention will be appointed from some of the states, not by the people in districts, but by state conventions en masse, composed of delegates appointed in all cases, as far as I am informed, by county or district conventions, and in some cases, if not misinformed, these again composed of delegates appointed by still smaller divisions, or a few interested individuals. Instead then, of being directly, or freshly from the people, the delegates to the (Baltimore) Convention will be delegates of delegates; and of course, removed, in all cases, at least three, if not four degrees from the people."

A former Assemblyman of the Nevada Legislature, Wesley L. Davis, Jr., made the following statement.

"Eight out of ten voters in this State (Nevada) want the opportunity to vote for their favorite to be the party candidate... several polls have given this figure."

(2) Precinct meetings to select county convention delegates are often secret, closed-door affairs and usually they are very informal. They may consist of a precinct chairman and one or two other interested parties. When they are held, they frequently take place in unannounced places such as shops, offices, etc. Richard S. Childs, Chairman, National Municipal League, states that these meetings for selection of county delegates are held less than one-third of the time.

(3) Occasionally, county conventions may be as informal as the precinct caucuses, and persons of questionable ability may be selected to attend the state conventions.

(4) Frequently, state conventions meet for one day only. One day is insufficient time if there are many real issues to decide, and if delegates are to be chosen in accordance with democratic principles. The county delegates arrive knowing that the issues and national delegates have been decided upon in most cases. Usually, after preliminary skirmishing, there is general ratification of matters, in a perfunctory manner. Most business matters have been settled well ahead of time. This "physical" condition and procedure of so many years' duration places the selection of delegates far out of reach of the rank-and-file party member, and even out of reach of county delegates. It is placed directly in the hands of the state party officials. Can these leaders be trusted to choose delegates favored by the party members? Even

if an attempt was made to do so, it would be difficult, since the voter preference is not registered. The practice of delegate selection under the pyramidal convention system is wide open to boss control. This control not only isolates the delegates to the national convention from voter sentiment, but also leads to the selection of delegates with minimum interest in the affairs of the average citizen. A very small minority can easily thwart the will of the people in their own party.

(5) Should there be a party split at the state convention, the party voter still has no voice. In some cases, the delegates will have been chosen many months before national issues and presidential candidates are even known.

(6) A presidential primary eliminates many prevailing evils of state convention systems. Present procedures often defy official supervision, and cannot be kept in proper order. The present machinery is often used to circumvent party voter opinion, and is susceptible to control by political veterans. Often only one side knows the "chess" game, and that side is almost invulnerable to amateur insurgency. Selection of the state delegates should not be left to the unchallengeable control of state party leaders. State regulation, including impartial count, is essential to protect the party voters' right to participate effectively when he so desires. This is set forth in a statement by former Republican National Committee Chairman, Hugh D. Scott:

"I favor the use of the primary system for choosing delegates rather than conventions or state committee meetings. While a strong political party organization usually dominates the primary it does leave the way open for the nomination of candidates with more popular appeal than those sometimes elected by party leaders and thus demonstrates the pulling power of attractive potential candidates."

(7) Without a presidential primary system, the election of delegates to the national convention through the party hierarchy system leads to confusion as to who represents the state at the conventions. The following instances of inefficiency and confusion can be eliminated by well-drafted presidential primary legislation. Credential committee uproars at the national convention can be prevented.

The presidential primary could eliminate:

(a) Contests between rival groups of delegates chosen by their party through the caucus or rival conventions. A state delegation is weakened if (1) all factions are seated; (2) if there are fractional votes; (3) if there is a split of the party. Such a split resulted in the formation of the "Bull Moose Party."

(b) In some cases a delegate may, by party control other than through a presidential primary, carry a "diluted" vote (possessing a proxy), which is considered to be an undemocratic practice and is undesirable in the proper function of a convention.

(c) "Devalued" delegates may be sent by state central committees, in the absence of presidential primary laws, which would inflate the membership of the national convention, and add to existing confusion. Devaluation occurs when a state committee sends as many representatives as possible. In many cases, twice the number of allotted delegates is sent, and each delegate has a half-vote.

There is evidence that the presidential primary elections have resulted

in fewer credential disputes at the national conventions. Of the 58 disputes which have arisen at the conventions since 1912, only 11 have been from states which hold a presidential primary. Richard S. Hanson states that, of these disputes, the ones involving presidential primary states did not involve the entire delegations.

(8) There is the question of caliber of individual delegates selected by the committee and state convention system. Considerable evidence points to the fact that better qualified delegates are usually elected where the voter has an open choice.

(9) Delegates with a clear knowledge of the wishes of the voter, expressed in a presidential primary, are more apt to fulfill their delegate responsibility than is the convention delegate who has only a vague idea of public sentiment in his state. Delegations acting under the public mandate also are more likely to work together in support of the favored candidate.

The crux of the arguments for the presidential primary election is that the convention system has been outgrown, and a broader nominating process is needed to give individual party members a direct voice in selecting their parties' presidential candidates. The proponents of the presidential primary believe that, by its use, fewer people will feel they have been deprived of their right to vote for their choice because of "deals" among small, powerful groups of political leaders. It is believed that the direct vote will more truly reflect the grassroots favorite among the candidates. It seems improbable that those states which now exercise a real control over the choice and action of their delegations, through effective presidential primary laws, will ever consider a return to the convention system.

Excerpts from National Publications and Statements by National Leaders

Evidence which reveals how the nominating system works in the absence of the presidential primary in Nevada and other states, is contained in the following statements and quotations from national sources.

From the five-volume study, Presidential Nominating Politics in 1952, prepared under the auspices of The American Political Science Association, with the cooperation of the Brookings Institution, the following excerpts were presented in hearings before the Subcommittee of the Committee on Judiciary, United States Senate, Eighty-Fourth Congress, First Session, in March and April, 1955.

(1) Nevada, Vol. V, P.112: The McCarran organization ran the precinct meetings and county conventions throughout the State. Poorly advertised and in some places virtually nonexistent, the precinct meetings attracted little or no popular attendance. Few Democratic gatherings were attended by more than a handful; some were not attended at all.

(2) Wyoming, Vol. V, P. 43: In Wyoming, the national convention delegate selection process actually begins almost two years before the State convention meets. In 1952, as in previous years since the beginning of the century, the county conventions took the form of county committee meetings. Only the committee members were allowed to vote, although all party members in the county were invited to attend.

(3) Arizona, Vol. V, P.141: Nearly two years later in April of a Presidential year, the State committee reconvenes, calls itself a State convention and selects delegates to the national convention. This being the final settlement of it.

(4) Idaho Vol.V,P. 37-38: It would be hard to conceive of a more devious system of translating voter choice into national convention action than the kind that exists in Idaho. It will be recalled that the first step in this long and complicated process takes place at the fall primaries two years before

the Presidential election. These elections of delegates to the county central committees are the only opportunities for participation by the parties' rank-and-file, and come at a time when interest in Presidential nominations is at its lowest ebb.

(5) New Mexico, Vol. V, P. 123: In both parties, the relatively weak State organizations are loose and shifting confederations of strong county organizations. These in turn have been dominated by leaders who derive their influence from wealth, family background, public reknown, control of a particular bloc of voters, or from prolonged and intensive party work. P. 126: In some instances it was alleged that county chairman failed to call precinct meetings. Often the membership of the county conventions was ill-defined.

(6) Washington, Vol. V, P. 175: In many of the rural counties, no precinct caucuses were held. Instead all Democrats were urged to attend the county convention, which selected delegates to the State convention.

(7) Idaho, Vol. V, P. 31: The administration faction under Governor Len Jordan and his State chairman, Milton Horsley, had selected the various committees and completed organizations of the convention before the day of the meeting. They gave their selections to the temporary chairman only a few minutes before the convention was called to order, thus forestalling any planned opposition from the floor. It is true that the State chairman's selections could have been overridden, but the timing made any such action difficult.

(8) Nevada, Vol. V, P. 113: The State convention on May 10 in Wells was carefully managed, though the appearance of an open proceeding was maintained throughout.

(9) Nevada, Vol. V, P. 103: Under the law, each county is entitled to send to the state convention one delegate for every 100 votes, or major fraction thereof, received in the last general election by the party candidate for representative in Congress. This small ratio for apportionment provides opportunity for widespread leaves the outcome of state conventions in the hands of well-managed voting blocs.

(10) Nevada, Vol. V, P. 117: The selection and behavior of national conventions delegations in both parties have depended on the factional situation within each party at the time of the state convention. As in many other states using the convention method, the rank-and-file party voters to date have been able to make their presidential preferences felt only so far as they are able to participate in the selection of precinct delegations to the county conventions and of county delegates to the state convention. This can have important consequences when a national contest becomes a factor in a state factional contest. Under Nevada circumstances, however, the 1952 precinct and county meetings did not provide a fair measure of the current presidential preferences of party voters.

(11) The National Story, Vol. I, P. 164: Where the parties are left to their own devices in the selection of delegates, the presumption is clear that the selection is party business and not public business. The presidential nomination is the greatest gift within the possession of either major party. The opportunity to participate in making the nomination, even as an individual delegate with only a single vote in the national convention, is a political prize that is not given out lightly. Party loyalty and party service are always factors taken into account. Generally,

the whole process goes forward, whatever the formal steps, with an enormous amount of consultation among the party regulars. The delegates selected by such a process are not always representative of the voters adhering to the respective parties, but they are almost always highly representative of sentiment within the party organizations from which they come.

(12) The National Story, Vol. 1, P. 170: Party processes for delegate selection have been widely subject to attack on two quite different grounds, although most arguments shift ground constantly from one position to the other. One line of attack says that the party processes are almost invariably disreputable: boss-ridden, rigged, open only to the party professionals, governed frequently by the worst of all possible motives. The other line of attack is of a different order; it is that even when the process is conducted legitimately and in accord with ethical standards of honesty and good practice, it is still an undemocratic process because it is incapable of enlisting the broad participation of the party rank-and-file.

Statements by National Leaders

U. S. Senator Estes Kefauver, Tennessee: In this period of struggle between the democracies and the dictatorships, the choice of men to lead our nation is too important to leave solely in the hands of politicians.

U. S. Senator George A. Smathers, Florida: The average voter is sick and tired of having his party's candidates thrust upon him. There is no doubt in my mind that the methods of which he complains have been demonstrated beyond any doubt to be nothing short of a national disgrace.

Harry S. Truman, former President of the United States: In a 1951 press conference Mr. Truman said he opposed a national presidential primary because he thought one presidential election a year was enough. In 1952, he wrote "I think we should reconsider the idea of a national presidential primary. We should leave no stone unturned in providing a real opportunity for all party members to take an active part in selecting their party's Presidential candidate."

Governor James E. Folsom, Alabama: I believe that presidential primaries would offer a far greater method for the electorate to express their opinions and wishes in regard to the election of presidential candidates than is the election by the convention system. The only real grass roots method of selecting any party candidate is by the primary system.

Governor Orval E. Faubus, Arkansas: I believe that presidential primary provisions have been an effective method of avoiding credentials disputes, and reflect public opinion in the selection of candidates.

Governor LeRoy Collins, Florida: I am proud to report that, as a part of our program in Florida for reform of the election laws, there was enacted at the 1955 session of our State Legislature a model form of presidential preferential primary ballot."

Governor George N. Craig, Indiana: Prior to the turn of the century, the convention system was used almost exclusively in the nomination of

candidates. There were, of course, a few exceptions. However, the convention system grew to a point where many abuses were prevalent on the part of notorious party 'bosses' who exercised their will over the convention rather than permitting the duly elected delegates to express a free choice. In many cases, blocks of delegates were voted in absentia by these so-called party leaders. These abuses led to removal of such powers from the bosses and substitution of the primary election system wherein the people themselves selected the candidates and were able to exercise their own judgment in the selection of party nominees. It is true there have been abuses in the primary system, however, on the whole, I believe it is more satisfactory and preferable to the old convention system.

Governor Fred Hall, Kansas: (Address to Legislature, January 13, 1955: I believe you should enact a law instituting the presidential preferential primary in this state. By this law, the people of Kansas would be permitted freely to express their choice of presidential candidates for the guidance of their convention delegates... The legislative council recommends you wait until a model bill is drafted for all the states. I doubt the wisdom of waiting and urge the enactment of the law this session.

Governor Theodore R. McKeldin, Maryland: I believe selection of party delegates by popular vote is good, provided they are elected in the main by Congressional districts, rather than at large, so that all areas of the state are represented.

Governor Robert B. Meyner, New Jersey: Because of modern methods of communication, television in particular, national conventions are no longer far removed from the people. The delegates and party leaders are very conscious of the millions who see and hear the conventions. It seems obvious that this popular participation will operate to improve the convention system.

Governor John F. Simms, New Mexico: I would personally favor any legislation which would simplify and streamline nominating conventions, provided at the same time the voter sentiment at home would still be adequately reflected.

Governor J. Bracken Lee, Utah: The value of a (presidential) primary is that it reflects the public view more so than a convention. I believe it is proper to retain the national convention but the abuses which sometimes occur in the selection of delegations to the convention should be eliminated.

Governor Walter J. Kohler, Wisconsin: We have a presidential primary election in Wisconsin and in my experience, it has been most effective in reflecting at the national convention the desires of the citizens of Wisconsin with respect to presidential nominees. I believe that were this system to be utilized through the country, it would assure the nomination and election of the presidential candidate who was the first choice of a majority of the citizens of the United States.

Arguments Against a Presidential Primary

The Lack of Adequate State Laws

The presidential primary system has been in effect for a number of years, and most of its inherent defects should be revealed by now. Therefore, arguments against the presidential primary should be carefully considered. However, much of the criticism directed against the presidential primaries arise because the system has not been fully developed. Either national legislation, or acceptance of a presidential primary by more states is necessary before the system can become fully effective. The following statement is an excerpt from the only known text devoted to the study of the presidential primary. The statement was made by Dr. Louise Overacker in her study entitled The Presidential Primary, written in 1926.

"Until the (presidential) primary is extended to more states it can be an effective weapon of control over national politics only in rare instances, and yet the ineffectiveness of the control under the existing situation is unquestionably one of the reasons why the presidential primary is not extended to other states."

Unfortunately, many of the state-enacted presidential primary laws are not as effective as they should be. Frequently, these laws were passed to meet peculiar political situations. Some provisions became inapplicable in subsequent presidential election years; some provisions were hastily considered. For these and other reasons, many of the presidential primary laws in other states are at best, "half-way" measures.

Particular Points of Attack

It should be noted that the foregoing criticisms do not apply to the chapter in this study entitled "Suggested Provisions for a new Nevada Presidential Primary Law." In developing the Nevada provisions, an attempt was made to avoid most of the weaknesses in the presidential primary laws of other states.

The following are arguments by those who feel the presidential primary, and a primary system should not be extended to include the direct voice of the voter with respect to his choice of a candidate for the presidency.

(1) Presidential candidates may enter contests only in those states where he is reasonably certain of a victory, and these over-inflate his prospects in the public eye. Some primary laws are so loosely drawn that the presidential candidate may withdraw after his name is entered, thus enabling him to avoid political defeat. He can also avoid a state where he might incur the wrath of state "bosses" who have machinery set up for favorite son candidates.

The matter of choice of entry circumvents the true interest of the voter in two ways: (a) frequently the voter is provided with a ballot that does not list all the major candidates of the party. The names of major candidates have been omitted from the presidential primary ballot. In their place, the names of "dummy" candidates have been inserted. The latter are usually state leaders, but are not prominent in national politics.

Mr. Richard H. Hansen made the following remarks in his dissertation entitled Serious Circus:

"In 12 of the cases where a real contest existed among aspirants for the presidential nomination between 1912-1955, there were opportunities for 166 (presidential) primary races among the

several states having presidential primary laws.
HOWEVER, in only 17 of the presidential primaries,
were all of the leading contenders entered."

From a study made by Richard S. Childs, entitled Presidential Primaries were Eye-Wash in 1956?, information indicates that in 1956, where a real contest existed in the Democratic party for the presidential nomination, Kefauver and Stevenson were named on ballots in only four states out of a possible 18. When major contenders are not on the ballot, the results of the election are inconclusive and the mandate of the voter becomes meaningless. The draft feature and the strict withdrawal provisions of the Suggested Provisions for a New Nevada Presidential Primary Law eliminate these major criticisms. The proposed Nevada act also prohibits the use of the "favorite son" device which has led to abuses and boss control in other states. The proposed Nevada legislation calls for a complete list of all presidential candidates from which the voter can choose.

The "favorite son" device is condemned by political scientists because voters often deliver themselves into the hands of a state machine simply because they have no opportunity to vote for more than one "presidential hopeful". Again, the proposed Nevada legislation, which is a part of this study, will provide a complete list of all candidates from which the voter can choose. An example of how the 1953 Nevada presidential primary failed to cover these major considerations is found in this quotation from the five volume study entitled Presidential Nominating Politics in 1952:

"The new and untried Nevada system has marked similarities to that of California.....if the experience of California is any criterion, the new Nevada system will lend itself to vigorous pre-convention campaigning if there is a contest, with favorite sons as ticket leaders much of the time. The new system will not necessarily produce contests. As in other states, much of its significance will depend upon whether real presidential possibilities find their way onto the ballot. Managers of national candidates will undoubtedly take new interest in the delegate selection process in Nevada as a result of the new (1953) statute. Nevada state party affairs may also be subjected to new influences arising out of national party developments.

(2) The notoriety-seeker may use the presidential primary laws for purposes other than those for which they were intended. Perhaps this point is one of the most difficult to resolve in the fabrication of a presidential primary law, because making the entry of a candidate easy, and encouraging popular individuals to enter, also opens the door to these notoriety-seekers. In the proposed presidential primary for Nevada, provision is made for meeting this serious objection. This provides for the exclusion of the "not-prominently-mentioned candidate" while giving open encouragement to the conscientious nomination seeker.

(3) Another difficulty may be encountered where there is a late entry after early primary elections or after ballots have been prepared and the date for filing has closed. A late entry frequently represents the popular drafting of a non-professional politician of unusual national popularity. This may be resolved by having provisions in the law for a write-in vote and holding the the presidential primary immediately prior to the convention. The suggested provisions for Nevada's law contain a write-in vote clause and recommend as late a date as possible for holding a presidential primary.

(4) In states that hold "open" presidential primaries, the voters of one party may "raid" the presidential primary of an opposition party and effect the election of a weak candidate. This criticism is true of any open primary and not peculiar to one of the presidential type. In any event, when voters participate in the primary of a party with which they are not affiliated, in many instances they are motivated by a sincere desire to help nominate a man they prefer to have available for their final vote in the general election. Organized raiding is not unknown and may be common and effective where one of the two major political parties is dominant. In the State of Nevada, elections are firmly established as closed primary systems. The proposed presidential primary provisions follow that precedent and eliminate the evil of raiding.

(5) Some presidential candidates may withdraw in favor of others, or for personal reasons, after a presidential primary is held. This would place any of their secured delegates in an awkward position. In practical application, these delegates would be released. By provisions in the suggestions for a Nevada law, the delegates representing the withdrawn candidate are closely associated with him in several ways. Undoubtedly they would be morally bound to support the candidate for whom their man will have withdrawn. Since the voter has expressed confidence in the withdrawing presidential candidate, it would not be unreasonable for the withdrawing candidate to suggest whom his delegates should support at the national convention. There would be no other solution to this rare occurrence other than a complicated system involving a second-choice candidate on the ballot. Provisions for a voter indication for second-choice or vice-president have largely been abandoned as unnecessary encumbrances of the ballot.

(6) The presidential candidate is faced with technical difficulties in obtaining access to the ballot, which involve a high degree of organization. There should be well organized groups within the states to carry out the several requirements concerned with entries. Early planning is necessary, and the lack of uniformity among the presidential primary laws of certain states makes it difficult for a candidate to comply with the multitude of petition requirements, filing dates, and other prerequisites, which can be baffling to a weakly-organized effort. The provisions contained in this study for a Nevada presidential primary provide for access to the ballot by simple declaration and a returnable filing fee, rather than by complicated petition methods.

(7) The time and expense involved in a presidential candidate's entry into the primaries would discourage all but those tied to the most highly developed political organizations. The many months of campaigning prior to the conventions for the presidential primaries, and the thousands of miles of travel necessitated, are no small undertaking. The solution of this inherent problem seems insurmountable. Television might offset the travel and time difficulties, but the sheer expense is a monumental consideration in the execution of any campaign. The office of president is demanding and securing it is equally difficult. This situation could be modified through national legislation for a uniform presidential primary law.

(8) Delegates to the conventions may be bound by a formal pledge, and in some few cases, provision has been made against their failure to follow the preference decision of the presidential primary. However, in spite of pledges, penalties, and in most cases, an absence of provisions on the subject, there is still no guarantee that the delegates will follow the voters' preferences at the convention. The pros and cons of just how effective pledges are to be secured and enforced, run the gamut from broad generalizations to definite mathematical formulas regarding the number of ballotings, percentage of the convention vote held by the candidate, etc., before formal release of the delegates can be made by the presidential candidate. Any formal attempt to bind the delegates to a candidate by specific provisions in a presidential primary law offers little protection to either the voter or the candidate. There is

more concern with the representing of a candidate at the convention than the indication at the roll call that the delegate is still voting for a given presidential candidate. This includes the intricate maneuverings and undercurrents in operation at the conventions and demands the constant attention of a delegate who is working in sincere support of his candidate. By far the best way to make certain that delegates are in complete sympathy and harmony with the candidate they are openly pledged to support lies in other areas of the presidential primary provisions. Most important of these is, again: assurance that all major candidates have been entered in the presidential primary, that the winner thereby has a true mandate from the voter, and that delegates realize their man has not been selected from an incomplete list. Equally important are provisions concerned with the method of delegate selection. If delegates are elected independently of the preference vote for presidential candidates, delegates may be elected who are not strongly associated with the candidate. There have been instances where the voters have chosen one candidate for president and elected almost a full slate of delegates openly pledged to the support of an opponent. Provisions have been made in the suggested legislation for Nevada for the very close association of the delegate and his candidate. Provision has been made for both the candidate and his delegates to be voted for with one mark on the ballot, making it impossible to select opposition delegates for a candidate. It may seem somewhat undemocratic that under the proposed Nevada provisions the voter has such little voice in who shall be the candidate's delegates. However, this is the very best assurance to the voter that his preference for a presidential candidate will be effectively carried out at the conventions. This is done without encumbering delegates with various binding provisions, which are inflexible, difficult to enforce, and for which there is no historical precedence. In the event a presidential candidate might tenaciously hold his delegates for an unreasonable time in the face of obvious defeat, the proposed Nevada presidential primary law contains a provision for automatic release. Should the presidential candidate finally return for the consideration of the convention as a "dark-horse" candidate, his former delegates would immediately be available to him both mathematically and in a practical sense because of their strong association with the candidate. Proposals for a new Nevada presidential primary law also provide (in addition to the moral association of the delegate's name with his candidate on the ballot) direct and specific penalties for any failure on the part of the delegate to carry out the mandate of the voter at the convention, unless and until released by his presidential candidate or by the release provision.

(9) Objections are raised against the situation wherein elected delegates frequently are bound to vote for their candidate in such a manner (and as instructed by the state presidential primary) that they cannot engineer the usual compromises which seem to be necessary to preserve the two-party system. Though this may work hardships on the old-line machines within the parties, it is held that it may be in the best interests of the voter by restricting "boss" control, and not be serious enough in effect to materially harm the two-party system. It is more important to the preservation of democracy that the voter have a voice in the nomination of presidents.

(10) The presidential primary ballots of some states allow for a choice of delegates, but no preference vote for the presidential candidates. Others allow for a preference expression for president but the delegates are appointed by the state conventions or central committees. It is clear that such incomplete presidential primaries cannot exist where a delegate slate is pledged to the support of a candidate and voted on with one mark of the ballot, as recommended in the provisions for a new Nevada presidential primary law.

(11) With presidential primaries in operation in only one-third of the states, and the delegates thus chosen hardly representing a substantial majority at the conventions, critics may label the presidential primary as inoperative with regard to its major concept, that of rendering a verdict which has controlled the convention nomination for president. This condition will gradually recede to the vanishing point, as additional states adopt some form of a presidential primary. The critics overlook the fact that frequently the presidential primary serves a very useful purpose at the state level where major candidate contests are decided. Indirectly this influences convention strategy and has at times influenced future decisions of these major candidates. The presidential primaries of 1956, held in California, Minnesota, and Florida, contributed materially to the testing of Democratic party strength. Stassen and Wilkie, on the Republican side, found the results of presidential primaries in which they ran of such value that they used the results in major decisions concerning further campaigning. It cannot be denied, however, that limited application of the presidential primary law system by no more than 26 states, at any one time in history, has contributed to the inability of the system to effectively render decisions at the national level. Passage of a presidential primary law again by Nevada will bring the nation closer to the point where the voter will be able to have a strong voice in the nomination of his party candidate for the presidency. In conclusion, it must be pointed out that the practical effect of control of the convention by presidential primaries varies widely according to how decisively a candidate has won several of the presidential primaries, who were entered in the presidential primaries, and which election year is being considered. Without actual control of numbers of delegates, the primaries have wielded no small influence on convention choices.

(12) In some state primaries involving a presidential primary election the verdict of the presidential primary is obscure because it is a conglomerate of decisions on state questions rather than a clear expression of opinion upon national issues. Relatively weak candidates for the presidency would be more susceptible to this confusion of state issues than would strong national contenders, with major national issues as part of their campaign. All the major contenders would be on the ballot for the Nevada voter under the provisions suggested in this study, thus diminishing this possibility.

(13) Another influence which may have consideration in some states has to do with the length of time between holding of the presidential primaries held in mid-March and those held much later, in early June. The results in states which hold them earlier may unduly influence the voting in presidential primaries held at later dates. However, it is argued that these later presidential primaries do reflect a matured voter sentiment, which is more timely and more accurate. The influence of any state's early presidential primary may have some effect on one held later in another state. The well-known independence of Nevada voters, demonstrated over many years, no doubt would modify this effect to a point where it would be negligible.

(14) Frequently factional fights are prompted by presidential primaries at this high level. This aggravates rather than alleviates differences within the parties to the extent that it may be difficult for a party to present a united front in the final elections. Such a situation may indicate that adjustments within the party are called for, thus being indirectly helpful to the party rank-and-file.

(15) A broad criticism of the presidential primary laws of the several states is that these laws, regardless of what points they may or may not cover, are intricate and ambiguous and may actually contain conflicts at law. This is a just criticism and one borne out by this study. The employment of conscientious

procedure and study before legislation is passed will make certain that the complex character inherent in the presidential primary law will remain as free as any other type of legislation in this respect. The principal reason for the repeal of Nevada's 1953 presidential primary law was based on this criticism of conflict at law, the specific points of which are covered in a separate section of this study. The proposed legislation for Nevada is purposely designed to eliminate any such conflict, ambiguity, and intricate provisions.

(16) The considerable cost of conducting a presidential primary election cannot be overlooked, especially where the presidential primary is held earlier than the regular state primary. It should be remembered, however, that this cost factor enters the picture but once every four years while the cost of a regular state primary election must be considered every two years. These expenses to the counties and the secretary of state are automatically provided for in the plan outlined in Chapter VI.

(17) A frequent criticism of presidential primaries is that too few voters exercise their right to vote. The mandate given a particular candidate by the voter may be questionable should he win a presidential primary in which a very low percentage of the voters will have participated. The question is, does he have a clear reading of the minds of his rank-and-file members? It should be pointed out, however, that small voter turnouts are in strong correlation with presidential primaries where no real contest exists, as with an incumbent president of national popularity. These low percentages of participation by the voters are often associated with presidential primaries where the major party contenders for the nomination are not present on the ballot. In other words, an incomplete ballot is offered the voters who naturally and understandably are not stimulated with a strong desire to render a decision in a situation if they are not offered the opportunity to pick from the major candidates. Not only do the proposed provisions for the new Nevada presidential primary provide for a complete ballot, but under the financing provisions there is an added incentive to each county in the state to get out the largest possible vote.

(18) With further reference to the voter there is the question of the extra burden placed on him, especially when the presidential primary is held separately from the general state primary. However, this consideration is modified where the "short-ballot" feature is employed. As it has been pointed out, presidential primaries occur infrequently. If our nation is to maintain a democracy, the voter must be expected to participate. The "short-ballot" feature is a part of the recommendations made in this report.

(19) In some states an interpretation of, or specific wording in the state constitution may prohibit the holding of mandatory presidential primary elections. This has proved to be the case with regard to mandatory provisions legislated in the states of Alabama and Texas. There is no provision in the Nevada constitution prohibiting presidential primaries. Early legislation actually specifies that interpretations of election chapters shall not be construed as restricting the rights of political parties to hold presidential primary elections. It was under state laws passed prior to World War I that the Democratic party of the State of Nevada held the first presidential primary in this state in 1912.

(20) Some critics contend that, since the national conventions are beyond the reach of state laws, there is no guarantee that they will acknowledge and accept delegates elected by a presidential primary system in the future.

Of course, both major political parties long ago accepted the presidential primary as a valid method of delegate selection by the states. In view of this stand the possibility that they would reverse themselves is remote, since a presidential primary election is an expression of true democracy. The moral implication of democratically-held elections in the interests of party members carry too much weight against any ideas of abandoning the practice or definitely ruling it out.

CHAPTER IV

CONFLICTS IN THE 1953 NEVADA PRESIDENTIAL PRIMARY LAW

Origin of the 1953 Nevada Presidential Primary Law

Chapter 299, Statutes of Nevada 1953, was the only legislation enacted by the Nevada Legislature that specifically provided for presidential primaries. Under a broad interpretation of earlier laws, a presidential primary could conceivably have been held. Nevada's presidential primary law follows very closely the provisions of the presidential primary law of California with some omissions, additions and changes.

When the California law was adopted, changes had to be made with reference to existing congressional districts. Nevada does not have this problem and sections 2078 and 2083 were either modified or not included in the Nevada law. Also, sections 2251, 2252, 2253 and 2254 of the California law were not included because these were designed to conform to a complex system of preparing and indexing nomination papers.

Difficult to comprehend were several changes made in the California law regarding time limits and numbers of days concerning many provisions. Regardless of other political considerations, these changes resulted in a Nevada law that was mechanically unworkable. If these changes were attempts to bring the California provisions into line with our existing regular state primary law, they fell far short of their goal. The changes created numerous conflicts between the regular state primary election and the presidential primary law enacted by the Nevada legislature. Changes in the California law, along with others that had no direct effect on the workability of the Nevada presidential primary law, are listed below:

Section 2050 Provides that the chairman of the state central committee of each political party notify the secretary of state, relative to the number of party delegates to the national convention, on or before the first day of March. The Nevada law, Section 13, changed this to the first day of April. This change does not give sufficient time for the obtaining of signatures by the verification deputies under the provision that they have (60) to (30) days prior to the presidential primary to obtain them. April 1 could fall only (60) days prior to the election. When consideration is given to the time for the secretary of state to notify the county clerks regarding the number of delegates, and for the county clerks to properly advise the county through advertising in local papers, the obvious conflict arises. Under these conditions, nominations for delegates could not properly be made and signatures obtained within the time allowed, (60) days prior to the election.

Section 2053 Provides a companion section to 2050 whereby the secretary of state must notify the county clerks as to the number of delegates on or before the 10th day of March. Nevada law, Section 4, changed this to the 10th day of

April in keeping with the change made in Section 2050. The same comments applying to this provision are made under Section 2050.

Section 2101 Provides that nomination papers shall be left with the county clerks at least (60) days prior to the presidential primary. Nevada law, Section 17, changed this to (25) days and made the mechanical operation of the law unworkable since other sections of the law specify that the secretary of state must have nomination papers processed and notice sent to the county clerks at least (30) days prior to the election. Since the county clerk is allowed (5) days after receiving the nomination papers before transmitting them to the secretary of state this would bring the time limit to (20) days prior to the election before the secretary of state would receive nomination papers to process. When further consideration is given to the practical aspects involving necessary time for processing, examination, and transmittals, the conflict at law becomes evident.

Section 2102 Provides that nomination papers for candidates for delegates be signed by not less than one-half of (1) and not more than (2) percent of the vote constituting the basis of percentage. Nevada law, Section 7, changed this to not less than (1) and not more than (3) percent. There was no conflict at law created by this change.

Section 2156 Provides that verification deputies may obtain signatures at any time not more than (90) nor less than (60) days prior to the presidential primary. Nevada law, Section 13, changed this to not more than (60) nor less than (30) days. This results in insufficient time to allow for the nomination papers to pass to the county clerk, secretary of state, and be returned to the county clerk. The change makes it possible for signatures to be collected to the very day the secretary of state is supposed to have processed nominations and notified county clerks as to those properly nominated. The change is also in direct conflict with Section 7 which provides that nomination papers be filed by delegate candidate groups (40) days prior to the presidential primary. The last (10) days for obtaining signatures would not be available as pointed out in connection with the changes made in California Section 2050, the notice relative to how many delegates shall be selected can come as close as (60) days prior to the election. By the time the secretary of state will have received the information from the central committees and then transmitted it to the county clerks and the clerks in turn advised the public through advertising, there might easily be only (50) days left prior to the presidential primary in which to obtain signatures. We have, in effect, by conflict of provisions made by changing California's law, cut (10) days from both the opening and terminating dates specified by the (60)

to (30) day period for nomination signatures, leaving a (50) to (40) day period of only (10) days for verification officers to obtain these signatures.

- Section 2157** Provides that the verification of signatures to nomination papers shall not be made by the candidate, nor by a county clerk, or deputy county clerk, nor within one hundred feet of any election booth, polling place, or any place where registration of electors is being conducted. Nevada law does not include this Section.
- Section 2350** Provides that at least (45) days before a presidential primary the secretary of state shall transmit to each county clerk a certified list of delegate candidates. Nevada law, Section 22, changed this to (30) days. As pointed out, this is impracticable since the secretary of state will not have the nomination papers at hand until (20) days prior to the election under the changes which were made in the California law. The county clerks receive these nomination papers (25) days prior to the election and have a (5) day period in which to examine the signatures on them.
- Section 2420.5** Provides that in the event a vacancy exists in the delegate group, the chairman shall designate a person to fill the vacancy. This provision is not contained in the Nevada law. Wide authority is granted by Nevada Section 25 as to the selection of alternates, but there is no provision for replacement of delegates. This is a possible point of confusion.

Conflicts Which Resulted in Repeal

Conflicts Within the 1953 Nevada Presidential Primary Law

From the practical standpoint, there were several major conflicts of a mechanical nature which were contained in the presidential primary law enacted in 1953 and repealed in 1955. These conflicts acted to make the law technically unworkable and are listed here by sections of the law:

Section 7 Provides that (40) days, or before, in advance of the presidential primary, a group of candidates for delegate to the national convention of a political party must comply with three sub-section prerequisites in order to be represented on the ballot by a group-heading favoring a candidate for the presidential nomination. Sub-section (3) requires that they must have been nominated by papers signed by a specified percentage of the voters on or before this (40) day limit, or cut-off date, for nomination paper signing. HOWEVER, this conflicts with Section 13 of the same act, which provides: "A group of candidates for delegate and verification deputies appointed by them, or for them, may obtain signatures to the nomination paper of the group of candidates at any time not more than (60) days nor less than (30) days prior to the presidential primary." A discrepancy of (10) days exists in the law. Section 13 allows for signatures up to (30) days and Section 7 has a cut off of (40) days prior to the presidential primary, for compliance necessary for access to the ballot.

Section 22 Provides that the secretary of state shall transmit to each county clerk a certified list containing the names and addresses of the candidates for delegate for whom nomination papers have been filed and who are entitled to be voted for at the presidential primary at least (30) days before a presidential primary. HOWEVER, this conflicts with two other sections. Section 17 provides that the nomination papers be left with the county clerk of the county in which they were circulated for examination at least (25) days prior to the presidential primary. Further, by provision of Section 19 the county clerk must transmit the nomination papers to the secretary of state within (5) days after they are left with him. These conflicting sections then would result in the secretary of state receiving the nomination papers (20) days prior to the presidential primary. Section 22 requires that his notice to the county clerks, relative to who is entitled to be voted on, be transmitted to them at least (30) days before a presidential primary. Here is an obvious technical impossibility. When consideration is given to allowing the secretary of state ample time after receiving the nomination papers from the county clerks for examination of them in accordance with other provisions, the unworkability of the presidential primary act of 1953 again becomes glaringly apparent.

Section 21 Provides that the secretary of state shall return nomination paper sections which bear an excess beyond the required signatures necessary to comply with filing provisions to the respective groups of candidates. The purpose in returning to the candidate groups the excess nomination papers is that the candidate group may notify the persons who signed the papers that they are free to sign any other nomination papers. HOWEVER, by provisions of Section 17 and 19 (cited previously) the secretary of state does not obtain these nomination papers from the county clerks until (20) days prior to the presidential primary. The right of voters whose signatures were in excess to

sign other nomination papers becomes completely unworkable since, according to Sections 13 and 7 respectively, the cut-off date for obtaining signatures to nomination papers is specified as (30) or (40) days prior to the presidential primary.

Conflict with the Primary Election Law

Some of the changes made when the Nevada presidential primary law became an adaptation of the California law were made evidently with a view toward shortening the length of time between the initiating of action by delegate filing and the holding of the election. This may have been an attempt to secure the latest voter sentiment and to insure a more complete field of presidential aspirants immediately prior to the presidential primary. The conflicts generated by these changes have been discussed. It is conjectured that some of the changes may have been made with a view toward bringing some of the provisions of the California law into closer correlation with Nevada's regular state primary law. At least this possibility should have received serious consideration. In any event, the Nevada presidential primary law, as it was enacted by the legislature, contained several conflicts with the existent Nevada primary law. Some of the provisions, while not actual conflicts at law, made the mechanical operation of the presidential primary extremely difficult. The following sections of Chapter 299, Statutes of Nevada 1953, known as the presidential primary law, are in conflict with, or make difficult the operation of, the basic primary election laws of the state, which is Chapter 155, Statutes of Nevada 1917 as amended. The term "differences" might be more correct since there were basic provisions in the presidential primary law which would have applied where conflict with the primary law might exist. However, these conflicts, or differences, are considered here since they had a practical effect on the efficiency with which the presidential primary could be executed.

1 Section 2 of the presidential primary law allows the chairman of the state central committee up to April 1 before notifying the secretary of state relative to the number of delegates to be elected. This could be only (60) days prior to the election. By further provision of

Section 4 the presidential primary law, such information relative to the number of delegates shall be transmitted to the county clerks as late as April 10 which could be only (50) days prior to the election.

Section 4, sub-section 1 of the primary law provides however that (80) days prior to the holding of a primary election the secretary of state shall notify the county clerks regarding the offices for which candidates are to be nominated. By further provision, as a companion to this,

Section 4, sub-section 2 of the primary law provides that within (10) days after receipt of such notice the county clerk shall publish this information in the county newspaper. This would be (70) days prior to the primary election.

Comment: While there is no actual conflict at law, the different provisions regarding dates for notifications among the state central committee secretary, secretary of state, and county clerk would require that separate notices be sent to the county clerk. By application of the "on or before" provision, the secretary of state could send the notice regarding delegate numbers, together with the other offices which are open, at the earlier date specified in the primary law, (80) days. However, what would be his position if one of the state central committee secretaries elected to wait until April 1 to notify him of the number of delegates to be elected for his political party only (60) days prior to the election?

Comment: In the presidential primary law, no provision is contained directing the county clerks to publish the information received from the secretary of state as to the number of delegates to be nominated for the political parties. Although it may be implied under the provision for publication found in the primary law, this primary law provision would not be workable in connection with the possibility mentioned above.

Comment: From the standpoint of practical considerations, the efficiency with which the secretary of state and the county clerks might operate would be greatly improved if the provisions on notification and publication were uniform as between the presidential primary and the regular state primary laws.

- II Section 17 of the presidential primary law provides that nomination papers be left with the county clerks at least (25) days prior to the election.
- Section 19 of the presidential primary law provides that within (5) days after receipt of the nomination papers the county clerk shall transmit them to the secretary of state.
- Section 13 of the regular state primary law provides that the sample ballot be prepared by the county clerks (21) days prior to the election.

Comment: If the county clerk receives the nomination papers (25) days prior to the election and has (5) days to examine them before transmitting them to the secretary of state, then the secretary of state could not possibly receive the papers sooner than (20) days prior to the election. The secretary of state must process the nomination papers, then notify the county clerk as to the names of delegate candidates properly nominated. Processing and transmitting information would take a minimum of two to three days. The printing of the ballots after the county clerks had the information would require several days more of preparation, making it impossible to comply with the provision that sample ballots shall be prepared by the county clerk not less than (21) days prior to the election.

- III Section 3 of the regular state primary law specifies that candidates who are to be voted on at the November elections are eligible for the regular state primary election.

Comment: Obviously, delegate candidates and those who are elected would not be participating in the November election. Their election is final at the primaries. There might well be a clarification of this point because a broad interpretation of Section 3 might disqualify delegate candidates from participation.

- IV Section 11 of the presidential primary law provides that delegate candidates complete certain requirements for entry on the ballot (40) days prior to the primary.

Section 5 of the primary law provides that a candidate complete certain requirements for entry on the ballot (50) days prior to the primary.

Comment: While there is no direct conflict at law because of the difference between these provisions, again the efficiency of the office of secretary of state would be improved if the provisions regarding the date were made similar. It is a matter of being watchful of separate groups and different cut-off dates, which should not be necessary under proper legislation.

- V Section 23 of the presidential primary provides for a complex notice to be published relative to the certified delegate candidates.

Section 11 of the primary law provides for notice to be published relative to certified candidates also, and the form is different.

Comment: Obviously these two notices cannot be made similar since they deal with entirely different officers to be elected. However, thought might have been directed to some form of a combined notice for all candidates for election rather than two separate notices completely different in form.

- VI Section 21 of the presidential primary law provides that the delegate candidates' names not be placed on the ballot to accommodate the short ballot feature. The names of the presidential candidates only appear on the ballot.

Section 12 of the primary law provides that candidate names be placed on the ballot.

Comment: This is common practice in presidential primaries and not peculiar to this law. The provisions for the candidates' names being printed, or not, do differ, but they constitute no difficulty in organization of the ballot. However, under a broad interpretation of the primary law it might be necessary to have the names of the delegate candidates printed on the ballot. Some clarification of this point might be considered.

- VII Section 11 of the presidential primary law provides that any (5) voters may form a nominating group for delegate candidates.

Section 5 sub-section (b) of the primary law provides for the nomination of candidates by any (10) qualified voters.

Comment: This is an inconsistency which seems superfluous.

VIII Section 7 of the primary law provides for various filing fees.

Comment: There are no provisions in the presidential primary for filing fees for either presidential candidates or delegate candidates. Possibly some fee for presidential candidates would be desirable in order to eliminate publicity seekers.

IX In several sections of the primary law reference is made to state officers as being eligible for consideration on the ballot.

Comment: Under a strict interpretation of the term, are delegates to national conventions state officers?

Conflict with the General Election Law

Few provisions of Chapter 299, known as the presidential primary law, could be considered in serious conflict with the general election law of the state. Most of the conflicts arise in comparing the presidential primary law with the present primary law (Chapter 197, Nevada Revised Statutes) and, of course, there are conflicts within the framework of the presidential primary law. However, the following points should receive consideration:

Section 24 of the presidential primary law specifies that the secretary of state shall grant certificates of election to the delegates who are elected from the winning slate.

Section 26 of the general election law provides that these certificates of election be issued by the governor of the state to successful candidates.

Comment: While compliance with this requirement is not impossible, it is undesirable to have this division of authority. If the governor's office is accustomed to issuing these certificates, it might not be in the best interests of efficiency to provide duplicate machinery in the secretary of state's office for a portion of the elected candidates.

Statements By The Attorney General and The Secretary of State

(Relative to the 1953 Nevada Presidential Primary Law)

Statements Made by the Attorney General

The 1955 Session of the Nevada Legislature faced the prospect of repealing Chapter 299, Statutes of Nevada 1953, known as the Nevada Presidential Primary Law. The law was repealed, based on information received from certain state officers who pointed out the unworkability of the law.

The following points were set forth by Attorney General Harvey Dickerson, before the Senate Committee on State and County Affairs. The Attorney General's remarks are presented here in their entirety, and each major point presented to the Committee is followed by an explanatory comment(s).

To properly understand the presentation of the Attorney General (and the comments which have been inserted) it must be kept clearly in mind that the material deals exclusively with the 1953 Nevada Presidential Primary Law and with the national picture in relation to the presidential primary situation existing in 1955, when Mr. Dickerson appeared before the Committee. The major arguments which were presented to the Committee regarding the 1953 presidential primary are not applicable to the proposed provisions for a new presidential primary law, or necessarily to the national situation existing in 1958.

The following discourse is the presentation of the Attorney General before the Senate Committee:

MR. CHAIRMAN:

I have requested the opportunity to appear before this Committee because I sincerely feel, as the Attorney General, that the Presidential Primary Law passed during the 1953 session of the legislature is unworkable. I have no prejudice against the purpose of the legislation, but in its present form, and taken in conjunction with the date of our primary, it will not accomplish the purpose for which it was designed.

The purpose of the law - from a nationwide standpoint - is to allow the people, rather than political bosses, to name the party candidates for President. It is to prevent the recurrence of a defeat of the peoples' choice as demonstrated at two conventions - Wilkie at the Republican Convention in Philadelphia, and Kefauver at the Democratic Convention in 1952. But it must be apparent that in order to be effective, the presidential primary system must be the law in those states having the greatest number of delegates. In other words, of what effect would be a pledge of the delegates of the smaller states to a candidate under the presidential primary law, if the larger states did not have such a law, and sent delegates to the convention uninstructed.

Comment: The situation regarding which states with large populations have presidential primary laws has changed since the remarks were made by the Attorney General in 1955. Since that date there have been changes even to the inclusion of the Territory of Alaska as among those with presidential primary laws. The national situation in 1958 shows that all but 2 of the 10 states with the largest populations now have presidential primaries. The 5 largest with respect to population, New York, California, Pennsylvania, Illinois, and Ohio all have presidential primaries. The next 2 in order of population, Texas and Michigan, do not have presidential primaries. Both of these states had presidential primaries but in the case of Texas the law was declared unconstitutional in 1916, and Michigan repealed its law in 1931. The next 3 states in order of population, New Jersey, Massachusetts, and Indiana, have presidential primaries; Indiana having reenacted such legislation in 1953 after repeal of such a law in 1929.

Comment: While state population and delegate votes are not in mathematical ratio, there is a very strong correlation, especially among most of the ten largest states in population.

Comment: The situation is now where the addition of only one or two more states enacting presidential primary legislation, regardless of their delegate numbers, will bring about a swing in the balance between delegates elected at presidential primaries and those selected at state conventions or by state committees. The point of balance is difficult to determine precisely since a few states still have optional primary laws, and the balance point fluctuates depending upon the action taken by these states. Also, the delegate numbers awarded to the states fluctuates from one convention year to another.

The first presumption that arises is that in the month of April of a presidential year, sufficient candidates will have announced their candidacy for their party's nomination for president to enable prospective delegates to make a definite choice. The affidavit to be filed with the Secretary of State by a candidate for delegate to his party's convention must be filed (Sec. 6) on or before the 40th day prior to the presidential primary (which would, under our present law, make the date for filing fall in April). In that affidavit the prospective delegate names his preference for his party's nomination for President. He further sets forth the names of candidates for delegate who have a similar preference.

Now it is my contention that inasmuch as the National Conventions are held in late July or in August, that an express preference for a presidential nominee is premature. John Doe might have expressed that he will be a candidate for his party's nomination for president. Yet in the 3 months that intervene between April and late July or August, he might have a complete change of mind. Richard Roe, an outstanding patriot, might not decide to place his name before his party's convention until the end of June or sometime in the forepart of July. Under our law our delegates would be committed to a man of lesser stature and ability.

Comment: Reference is made to the conventions being held in late July or August. For the first time in this century both 1956 conventions were held in August. Since 1900 all prior conventions of both major political parties were held with July 21 as the latest date, this in 1952. The only other convention date past mid-July was that of July 19, in 1944. By far the majority of dates for the conventions have occurred in the month of June, though in recent years the trend has been definitely toward the months of July and August. Should this trend continue the convention dates for the major parties is a point well taken by the Attorney General. There is no legal control as to when these might be. However, a presidential primary date in the early days of June generally has been accepted as the latest advisable plan when consideration is given to past convention dates. Such a provision was included in the presidential primary law of 1953, in correlation with the April delegate filing date. Provision is contained in the new suggested legislation for a fluctuating date 30 days prior to the first convention.

Comment: As the Attorney General points out, it is entirely possible that a candidate of major significance might announce his candidacy after a Nevada presidential primary. While this may occur, it is possible to provide for it

as suggested in the provisions for a new presidential primary law. A write-in provision will accommodate the desire of the voters to indicate their choice of such a potential candidate immediately prior to the convention and may well dictate the course of action for him to take in announcing his candidacy. Should a write-in candidate win delegates in the presidential primary there would have to be a method for determining who the delegates should be. This provision is contained in the new suggested legislation which is a part of this study.

Comment: Though it is possible for a candidate to announce his candidacy after a presidential primary (held in June) the possibility of such a move is remote. The reason for this is simple. If he is actively interested in the nomination, a tremendous amount of political groundwork must be completed well in advance of the convention, this necessarily includes an open intention and announcement that he is a candidate. This is further emphasized by the incidence of presidential primaries in which it is advisable that he enter to capture delegate votes. Some of these are held as early as March; several in April; most of them in May. The Attorney General is correct in pointing out the possibility which can occur with great national heroes and those of great popular appeal. However this possibility may be provided for with a write-in provision.

But there are other inconsistencies. Section 7 of the act provides that no group of candidates for delegates to the National Convention of a political party shall be represented on the ballot by a group heading favoring a candidate for presidential nominee unless on or before 40 days prior to the presidential primary the affidavit heretofore referred to has been filed by each member of a group of delegates, and such group of candidates for delegates has been endorsed by the candidate for presidential nominee for whom the members of such group have filed a preference, or by a State Campaign Committee created in support of the candidacy of such presidential nominee, which has not been repudiated by him as lacking authority to make such endorsement, by endorsement filed with the Secretary of State in the following form, and here follows an endorsement form.

Now let us examine this section. In addition to filing affidavits of preference the candidates for delegates must have the endorsement of their preferred nominee, or an endorsement of a committee working in his behalf which has not been repudiated by him. Suppose in April, and this is possible, that no one has definitely announced his candidacy for his party's nomination for president. There is then no one to endorse the candidates for the delegates, and there would most certainly be no committee to act on behalf of a non-existent candidate.

Let us determine, for the purpose of argument, that John Doe has announced his candidacy, and that in one state three or four different campaign committees have been created to work for the nomination of John Doe. Suppose that John Doe, being a busy man, has not repudiated any of these committees as lacking authority to make an endorsement of the candidates for delegates preferring him, and suppose two of these committees endorse a group of candidates. What step is the Secretary of State to take to

determine which endorsement should be accredited? Under the law, he would have to accept both endorsements.

Comment: The Attorney General points out a weakness inherent in the 1953 presidential primary law. Two or more campaign committees might very well be working in the interests of a single candidate who might not have repudiated any of them. In such a case the secretary of state would be faced with the problem of which slate should represent the candidate on the ballot. Such involved provisions concerning nominating procedures and endorsements by state committees of a candidate are completely eliminated from the new suggested provisions and therefore offer no possible trouble on this point.

Comment: Further reference is made to the possibility that in April no one may have announced his candidacy for the office of president in his party. This would be a most remote possibility since several presidential primaries would have been held by the time it would be necessary for delegates to select their man. In order to enter these earlier primaries, candidates for both major parties would have been announced. A very early presidential primary might raise a point but even so it would be difficult to conceive of such non-activity among prospects. With the adoption of the amendment to the federal constitution which now provides for no more than two presidential terms, this situation would be even more remote.

Paragraph 3 of Section 7 provides that a group of candidates in addition to the provisos set forth heretofore must have been nominated by nomination papers signed by not less than 1 percent nor more than 3 percent of the vote polled for the party's candidate for Governor at the last preceding general election at which a Governor was elected. What happens if a group of candidates secure the signatures of more than 3%? Jumping over to Section 21 the Secretary of State becomes a bookkeeper. When nomination papers or sections thereof have been received which contain valid signatures equal to 3%, he shall not receive or file any further papers, but shall return the excess to the group of candidates comprising the excess, who shall in turn notify each person who has signed the excess sections that his name has not been used and that he is free to sign any other nomination paper.

This section also provides that the names of the successful delegates shall not appear on the ballot, but only the name of the presidential nominee they prefer.

Comment: The criticism of this section of the 1953 presidential primary law points out the work-load placed on the office of the secretary of state of such a magnitude as to make it almost impossible to handle if several candidates in both major parties should file. Nomination papers are entirely eliminated from the suggested provisions for the new presidential primary law. Further, it might be pointed out that excess signers could not sign any other nomination sections since they would be notified after the cut-off day for signing.

Comment: With reference to the remark regarding names of successful delegates not appearing on the ballot, we find this method in line with the improved short-form ballot. Arguments may be advanced for and against.

However, it remains a primary concern that voters are voting for presidential candidates and not specifically for individual delegates in this type of preferential presidential primary. Since the delegates could not be voted for individually (only as a slate), their names on the ballot are not particularly significant.

Section 8 may well be considered in view of any previous remarks on Section 7. It provides that any candidate for delegate whose name appears on nomination papers filed by more than one group, shall be considered as a part of that group which has been endorsed by the presidential nominee or by a committee organized or created to act in behalf of his candidacy. Suppose as previously stated, that the presidential candidate for nominee has not endorsed a group of candidates and that the group has been endorsed by two committees, neither of which has been repudiated by the presidential candidate for nominee?

Comment: Here again is a just criticism of the 1953 presidential primary law, raising a point of considerable confusion for the secretary of state. The various provisions concerning nomination papers and slates of delegates have been completely eliminated in the suggested provisions for the new presidential primary law.

The appointment of verification deputies to obtain signatures either by the candidates for delegates or by a committee for a group of candidates involves the completion of forms to be sworn to before a notary public. In going through the law I find an even dozen forms and notices to be completed, which involve in part the candidates, the verification deputies, the county clerks, the Secretary of State, the qualified electors, the presidential candidate for nominee and the committees formed to secure his nomination.

The extra burden thrown upon the County Clerks and the Secretary of State in a presidential election year will be onerous and expensive. It must entail extra help and additional funds.

Comment: As pointed out by the Attorney General it would be hard to conceive of a more elaborate and complex procedure than that entailed in the completion of these various forms. The burden thrown on the secretary of state's office and the offices of the county clerks would be monumental. Even with the help of special funds to cover the cost quality control might well prove questionable. Such a complexity of forms and procedure is not a part of the suggested provisions in the new presidential primary law which is a part of this study.

There are other misgivings which I believe merit your consideration. Section 16 of the Act opens the door, in my opinion, to serious abuses of the election laws. One of the provisions therein is as follows: "Until the contrary be proved, a verified nomination paper shall be prima-facie evidence that the signatures are genuine, and that the persons signing it are electors residing within the county in which the section of such nomination paper upon which their names appear was circulated, and are registered as intending to affiliate with the party by which the group of candidates for delegate whose names appear upon such nomination paper are to be nominated.

I can foresee where a zealous verification deputy could secure the signatures of persons who are not qualified electors, and yet the verification deputies oath merely avers that the signature is genuine.

Comment: As the Attorney General has pointed out, the protection offered under this provision is extremely weak and open to easy manipulation as in the obtaining of valid signatures. Such a method of obtaining signatures for nomination papers is not contained in the suggested provisions for a new presidential primary law.

Section 18 throws upon the County Clerk the burden of examining all nomination papers and comparing the signatures thereon with the handwriting on the affidavit of registration. The duty devolves upon the County Clerk to become a handwriting expert and when, in the opinion of the County Clerk the signatures do not appear in the same handwriting then he, or she, is to mark "not sufficient" against the name of the voter in which there appears to be a discrepancy in the signature. If the voter has neglected to state his, or her, intention to affiliate with the political party named in the nomination papers the Clerk shall mark "not sufficient" opposite the name of the voter.

Comment: Although the provisions of the 1953 presidential primary allow the county clerks a period of (5) days for this job, it is obvious that they would be working under awkward conditions in the examination of signatures while having to accept additional work-loads to carry out the provisions of the law. Particularly would this be the case where several delegate groups were filing for both major political parties. Again under the suggested provisions for a new presidential primary law there is no necessity for obtaining nomination signatures.

I sincerely believe that the law should be repealed as it now stands. There are other discrepancies and illogical provisions which only an extended discussion would reach.

s/ Harvey Dickerson

Comment: The Attorney General acted in the best interests of the people of the State of Nevada in recommending that the legislature repeal the presidential primary act of 1953. As the 1953 act was constructed, based on the California law with various changes, it existed in a truly unworkable form. The only other possibility that might have been considered would have been an extensive amending of the 1953 law. However, since the amending would have been highly complex and the resulting patched-up law still far from a modern treatment of the problem, undoubtedly a complete repeal was a wise recommendation.

Comment: Again it must be emphasized that the Attorney General's remarks are directed at the 1953 presidential primary and have no reference to any proposed legislation. Also, his remarks were directed not at the principles of the presidential primary but only had reference to an instrument poorly conceived and which made an attempt to place into operation the principles of a workable presidential primary law.

Comment: It must be remembered that the remarks were also contemporary with the national situation as it existed in 1955 and should not be considered in the light of the situation as in 1958, or as having a particular bearing on the future. In connection with this thought particular reference is

made to the comments in the opening remarks of the Attorney General as to convention dates, and to states with large numbers of delegates. The legislative picture has been highly fluid during recent years.

In addition to this formal presentation by the Attorney General before the Committee, the various discrepancies in the 1953 Nevada Presidential Primary Law regarding the mechanical unworkability (due to date specifications) were pointed out on several occasions by Mr. Dickerson.

Statements Made by the Secretary of State

At the request of Legislative Counsel, Mr. Jeff Springmeyer, Secretary of State Mr. John Koontz, was asked to expand on his reasons for advising that the 1953 Nevada Presidential Primary law be repealed. To that end a conference with the Legislative Counsel was held December 6, 1957, the high points of which are discussed here.

The Secretary of State agreed with the contentions of this study that serious conflicts existed in the 1953 Nevada Presidential Primary law and that these were valid in every particular. Mr. Koontz emphasized that, not only were certain sections in conflict with each other (thus making the law unworkable) but various provisions concerned with nomination papers and necessary processing by his office and the offices of the county clerks would impose severe hardship on the respective personnel. Another issue raised by the Secretary of State concerned the registration purges necessary in connection with any separately-held presidential primary election, a consideration which is not applicable to the old 1953 law but would effect the new provisions which are a part of this study. On this point the Secretary of State suggested that the county clerks be consulted concerning an estimate to what extent this task would involve them every four years.

Mr. Koontz agreed with the provision in the old 1953 law that the delegate names should not be on the ballot. This may be found among the new suggested provisions. The Secretary of State pointed out that the matter of filing fees was absent from the old 1953 presidential primary law and suggested that there should be fees, in order to discourage mere publicity-seekers. The new suggested provisions call for a filing fee, which is returnable when a specified percentage of the vote has been garnered by the presidential candidate. No fee would be required of the delegate candidates.

The 1953 presidential primary law provides that certificates of election be issued to delegates of successful slates by the office of the secretary of state. Mr. Koontz noted that this would be a departure from the normal procedure of having successful candidates receive their certificates of election through the governor of the state, and that the delegates' certificates also should be issued by the governor's office. The division of authority and the duplication of procedure is not desirable.

The Secretary of State was asked whether he thought delegates to the national convention would be classified as "state officers". This is an issue because the election laws of the state make several references to "state officers" as being eligible for consideration in the general and primary election systems. On this point the Secretary of State said there was the possibility that they might not be classified as "state officers" and some thought should be given to the application of the term in general and primary election laws. Reference was made to the opinion issued by the attorney general designated Number (4), 1943. This opinion bars the United States Senator from Nevada being a "state officer." Just how this might affect delegates to a national convention has not been determined officially.

In his closing remarks the Secretary of State pointed out that the vast complex of nomination forms and the system necessary to process the delegate nominations might well prove impossible to contend with in actual practice. Of course, this unworkability is pyramided on the particular mechanical conflicts existent in the 1953 presidential primary. These alone would make the law unworkable even should the secretary of state and the county clerks have staffs sufficient to process the volume of delegate nomination papers. The proposed provisions for a new presidential primary (which are a part of this study) do not necessitate this complex of nomination papers, affidavits, endorsements, verification deputies' papers, etc.; therefore the burden imposed by such complications is in large measure lifted from the shoulders of county clerks and the secretary of state.

CHAPTER V

SUGGESTED PROVISIONS FOR A NEW NEVADA PRESIDENTIAL PRIMARY LAW

Major Provisions Which Must Be Considered

General Provisions - Type of Presidential Primary

(1) Shall the presidential primary allow the voter a preference indicating his choice of a candidate for the presidency, or shall the voter be allowed to select delegates only? The preference feature may be provided for by one of two methods. (a) By voting directly for a presidential candidate. (b) By voting indirectly for delegates who may be pledged to support a particular candidate, either as individuals or as a slate associated with the candidate. Either of these two systems constitutes what is known as a preferential presidential primary. Most states employ the preferential system with delegates pledged to, or associated with, the presidential candidate. When the voter may select delegates only, with no formal indication of whom they are supporting for president, this system employs the shorter term, "presidential primary", without the preference feature. Broadly, however, any of these systems are referred to collectively as presidential primaries. (See Table 1, Chapter 1)

(2) Shall delegates be elected to the conventions or shall the presidential primary provide only for a preference from among presidential candidates? The latter would decide the presidential candidate to be supported but would leave the delegates to be appointed by the old state convention or committee method. Most states provide for the election of delegates directly or indirectly. (See Table 1, Chapter 1)

(3) Shall the presidential primary provide that the winner of the presidential candidacy secure all of the delegates regardless of how close the contest may have been, as is now practiced in the Electoral College System? Or, shall a proportional representation system be employed committing delegates to the presidential candidates based on the percentage of the total vote each obtained in the election? This latter suggestion would provide for a much truer representation of the voter sentiment of the state at the national conventions. However, under existing laws this is provided for only in the few cases where a state is divided into congressional districts, with the district vote determining the delegates. This would be a new departure at the level of delegates-at-large which, of course, applied to the Nevada situation where no congressional districts exist.

(4) Shall the presidential primary be held according to legislation which is mandatory or shall provision be made that the presidential primary be held at the option of each political party, and provided for at their discretion? For proper functioning practically all states employ the mandatory provision.

(5) To be of practical value the presidential primary must be held at a time reasonably prior to the dates of the national conventions. (See Table 2) Immediately, this poses a choice for states where existing regular primaries are held after these convention dates. Shall the presi-

T A B L E 2

NATIONAL CONVENTION DATES SINCE 1900

(D) Democratic
(R) Republican

<u>JUNE</u>				<u>JULY</u>			
7th	1916	(R)	Chicago	4th	1900	(D)	Kansas City
8th	1920	(R)	Chicago	6th	1904	(D)	St. Louis
9th	1936	(R)	Cleveland	7th	1908	(D)	Denver
10th	1924	(R)	Cleveland	7th	1952	(R)	Chicago
12th	1928	(R)	Kansas City	12th	1948	(D)	Philadelphia
14th	1916	(D)	St. Louis	15th	1940	(D)	Chicago
14th	1932	(R)	Chicago	19th	1944	(D)	Chicago
16th	1908	(R)	Chicago	21st	1952	(D)	Chicago
18th	1912	(R)	Chicago				
19th	1900	(R)	Philadelphia				
21st	1904	(R)	Chicago				
21st	1948	(R)	Philadelphia				
23rd	1936	(D)	Philadelphia				
24th	1924	(D)	New York				
24th	1940	(R)	Philadelphia				
25th	1912	(D)	Baltimore				
26th	1928	(D)	Houston				
26th	1944	(R)	Chicago				
27th	1932	(D)	Chicago				
28th	1920	(D)	San Francisco				
				<u>AUGUST</u>			
				13th	1956	(D)	Chicago
				20th	1956	(R)	San Francisco

TABLE 3
CALENDAR OF PRESIDENTIAL PRIMARIES
YEAR 1956

MARCH

13th New Hampshire
20th Minnesota

APRIL

3rd Wisconsin
10th Illinois
24th Alaska
24th Massachusetts
24th Pennsylvania

MAY

7th Maryland
8th Indiana
8th Ohio
15th Nebraska
18th Oregon
29th Florida

JUNE

5th California
5th Montana
5th New York
5th South Dakota

dential primary be held in conjunction with the state regular primary election, making an earlier date for primary elections necessary? Or, shall the presidential primary be held separate from and earlier than the regular primary election? The various states differ on this matter, local situations affecting decisions on this provision. In any event the presidential primary must be held at the very latest, some time in late May or early June. (See Table 3)

(6) Shall the presidential primary elections be open to all registered voters or be restricted to voters registered with a particular political party? The former is called the "open" Primary, the other is the "closed" type. Most states provide for the closed presidential primary feature.

(7) Shall the presidential primary provide for the "short ballot" feature, where delegate names are not listed on the ballot? Or, if they are listed, one mark on the ballot will be a vote for the candidate and his delegates? These provisions are accepted as a more efficient method of conducting these elections.

(8) Shall write-in votes be provided for, or shall the voter be required to make his choice only from among those candidates appearing on the ballot? Some states have the write-in provision which has certain advantages as pointed out in this study.

(9) Shall there be provisions to define a "political party? Shall these provisions restrict the presidential primary to major parties, or provide for minor parties and also those formed since the preceding election?

(10) Shall the presidential primary provide for voter participation in a preference for a presidential second choice, or an indication of vice presidential candidates? Few states ever have provided for such choices by the voter. Usually, restricting the issue to the chief candidate, without clouding the situation with these secondary expressions, is considered complex enough. Probably the matter should rest with the convention as a whole.

(11) Shall the presidential primary include a provision for the election by the voter of the state committeemen and/or committeewomen? Many states have provided for this voter control. Generally, political aspects peculiar to each state must be considered before a decision can be made on this point.

General Provisions - Regarding the Presidential Candidate Himself

(1) How shall access to the ballot be made for the presidential candidates? By declaration of candidacy, petition of supporters, write-in votes, draft, protesting minority, or any of these in combination? Declarations and petitions are the most common. In actual practice declarations usually are initiated by local supporters and petitions circulated at informal party meetings.

(2) Shall the consent of the presidential candidate be required for entry on the presidential primary ballot, or shall his name be entered without his formal consent? In many states this consent is not required, but such provisions often lack any practical effect due to a loophole covered in the next point in question.

(3) Shall the presidential candidate be allowed the privilege of withdrawal, after his non-consent entry by an interested group, or because of a change in his own intentions in connection with his initiated entry? If withdrawal provisions are provided, draft provisions will become ineffective unless the withdrawal provisions are written to remove from any further consideration by his party any candidate who has taken advantage of them.

General Provisions - Regarding the Delegates to the Conventions

(1) Shall delegates be elected at a presidential primary or shall they be selected by the state conventions? Some states provide for a presidential preference primary, but the delegates are appointed by the state central committee or elected at the state convention. Most states provide that the delegates also be elected by the voters at the presidential primary. In some cases district delegates are elected at the presidential primary and delegates-at-large selected by the old method.

(2) How shall access to the ballot by the delegates be provided? By declaration, petition, affidavit of the candidate they support, state central committee, national committeemen, presidential candidates' state committee, or the presidential candidate himself? Petition, or steps taken by the candidate are most common. The petition method is quite apt to be cumbersome and difficult to administer.

(3) Shall delegates be pledged on the ballot to a particular presidential candidate or be unpledged and as independent delegates? Most states provide for a relationship between the delegates and the candidate, with slates of delegates associated with the candidate, or individual pledges for a candidate when not combined on a slate.

(4) Shall pledged delegates run as individuals or shall they be combined in slates of delegates in support of presidential candidates? There is a trend toward the slate method, even in states with congressional districts where a type of proportional representation is practiced involving the strong possibility that all of the slate will not be elected.

(5) Shall the consent of the presidential candidate be required of delegates who wish to pledge themselves, or may they back a candidate without his consent? Most laws provide the presidential candidate with this protection, either directly or through his campaign committee. This protection is also effective where two or more slates backing the same candidate are submitted.

(6) For his inclusion on a ballot as an individual, or more commonly as a member of a slate of delegates, shall the consent of a delegate be required? This is usually provided for in the interests of efficient operation of the presidential primary. However, practical considerations make such a provision rather unnecessary.

(7) Shall provisions for the delegate to make a formal pledge of his support of his choice of presidential candidate be contained in the law? Some states provide for a formal pledge statement, others for information

to appear on the ballot. Most states honor this indicated pledge through the slate method of grouping the delegates with the presidential candidate; the moral implication being held sufficient.

(8) Shall the results of the presidential primary be binding on the delegates elected and, if so, to what extent? It is possible in some states to elect delegates pledged to a different candidate from the one who wins the preference vote. Where a preference vote only for the presidential candidate is held, shall the results be binding on delegates appointed at a previous or later date? In most states the results of the primary in this respect are advisory in nature. Where one mark of the ballot is made to elect the presidential candidate and his slate obviously the problem is a lesser one.

(9) Shall penalties be provided for the failure of a delegate to support the candidate to whom he is pledged? This is a difficult point and rarely provided for in presidential primary laws. The closing remarks in this section show why this is not absolutely necessary in the light of proper legislation on other provisions.

(10) Shall provisions be made for no-preference delegates? There are some cases where such a provision is advisable and several states have such a provision. However, with a draft feature insuring a maximum number of presidential candidates on the ballot, the necessity of having this provision is practically eliminated.

(11) What method shall be used to determine the alternate delegates? Shall they be elected or shall they be selected by the elected delegates? In some states the elected delegates meet as a body and provide for the alternate delegates. Frequently the delegation chairman also is chosen by this method.

(12) What shall be the status of national committee members and other important figures with regard to a position on the delegation to the convention? Usually this problem is resolved, when such personages have not been elected as regular delegates, by selecting them as alternates so that they may attend the conventions in an official capacity.

General Provisions - The Voter

Who shall vote in the presidential primary? Provisions should establish voting eligibility and should correlate usually with the provisions provided for in the primary election laws of the state in question.

General Provisions - Conclusion

The most important contribution to a successful presidential primary law is a provision guaranteeing that all major contenders for the presidential nomination will be entered on the ballot. Consent and withdrawal privileges must be drawn with utmost care. The results should materialize in a binding obligation on convention delegates and the outcome of the presidential primary elections will clearly represent a mandate from the voters.

Provisions To Be Correlated With Nevada Primary Election Law

The following sections of Nevada's existing primary law must receive consideration with reference to the establishing of a new presidential primary law. To guarantee the greatest efficiency in carrying out provisions of a presidential

primary law by the secretary of state and the county officers, provisions of both laws should be correlated as closely as possible. Changes should be made only where obviously necessary to the proper execution of the presidential primary law. Sections which require consideration in this connection are:

Section 294.025 ("Political Party" defined) There is no reason why the provisions contained in this section cannot also be applied to the presidential primary. They provide for the definition of a political party based on past voting standards and also offer the opportunity for newly-formed political parties to enter by petition. However, specific wording should be incorporated in the presidential primary provisions to the effect that presidential primaries are mandatory on parties that meet the definition of "political party." This is in order to clarify any provision that might be misconstrued as optional and to be met at the discretion of any of the parties concerned.

Section 294.035 ("Primary", "primary election" defined) Should the legislature elect to hold the regular state primary and the presidential primary at the same time, this section would have to be revised to specify a May, June or fluctuating date. If the legislature chooses to hold the elections separately then a different provision must be made for the presidential primary and the date on which it shall be held.

Section 294.065 (Nomination of candidates for elective public office: Procedure) This section is not applicable to the presidential primary. In all probability the method of access to the ballot as provided in the presidential primary will be altered if the legislature follows the suggested provisions of this study. Should the legislature incline toward the older method of nomination and the complex petition system called for in the 1953 Nevada presidential primary law the provisions of this section might be retained as far as practicable.

Section 294.075 (Date of primary election) Considerations offered under Section 294.035 also apply to this section.

Section 294.080 (Payment of expenses of primary elections) Necessarily this section will be changed in the presidential primary law should the legislature provide for the financing of the presidential primary elections as suggested in this study.

Section 294.095 (Notice to county clerk by secretary of state designating offices to be filled) Again, if separate elections are held this section will require modification when providing for a presidential primary in order to comply with the earlier date.

Section 294.100 (Publication of notice by county clerk) This provision need not be changed to correlate with a new presidential primary law.

Section 294.115 (Conditions for printing name on ballot) Should the legislature adopt the suggested provisions with respect to the drafting of presidential candidates this section would be in conflict. A separate section should be considered in the presidential primary law in order to supersede it. With respect to delegate entry on the ballot here also differences will have to be considered.

Section 294.120 (Time for filing declaration of candidacy, acceptance of nomination) The same considerations apply here as in Section 294.115, especially with reference to the time element, this in view of possible late drafting provisions which may be contained in the presidential primary law.

Section 294.125 (Declaration of candidacy, acceptance of nomination: Form) Necessarily there will be some differences in forms required between the two elections and consideration should be given to both forms for presidential candidate and for delegates.

Section 294.130 (Designation of nomination: Procedure; form) This section will largely be inapplicable to the proposed provisions for a new presidential primary law, chiefly because it limits the procedure of entry on the ballot of both presidential and delegate candidates to a nomination only. This section also refers to the nomination of "qualified electors" under which a presidential candidate from another state could not qualify, of course.

Section 294.135 (Offices for filing nomination papers) This section should be considered with the view to specifying somewhere in the presidential primary law that filing for both the presidential candidate and all delegates must be with the secretary of state exclusively. And further, clauses should be included relative to draft provisions.

Section 294.140 (Limitations on time for filing nomination papers) Provision should be made to include presidential candidates and national delegates so that these limitations can be extended to cover the presidential primary law.

Section 294.145 (Filing Fees) Provision should be made in the presidential primary law for the filing fee for the presidential candidate with the proviso that it be returned in the event the candidate polls a certain percentage of the vote. Filing fees in this section are not returnable. If the legislature follows the suggested provisions of this study a "substantial" filing fee would be required, but returnable under certain conditions. Delegate fees might also be considered with this provision.

Section 294.150 (Disposition of filing fees) With a returnable filing fee possible, the provisions of this section will necessarily have to be modified.

Section 294.160 (Certification of eligible nominees to counties; Time) In view of the probability of separately-held elections, this section would need a revision in the presidential primary law to conform to a May or June date.

Section 294.165 (Notice of primary election: Publication; form and contents) This provision provides for a no-contest feature suggested in the provisions of this study and needs no change to correlate with a new presidential primary law.

Section 294.175 (Sample ballots: Preparation; distribution) The provision for sample ballots should reflect any separately-held elections to correlate with the May or June date whichever may be designated for the presidential primary.

Section 294.185 Official ballots: Printing; paper; names of candidates) Subsection (1) will need revision with respect to when county clerks order ballot paper since the wording of the subsection has reference to time after closing of "regular primary election registration." Also needing revision will be subsection (3), where provision is made for all names to be printed on the ballot. In the event the legislature adopts the "short" ballot suggested in this study, names of delegates would appear only on the sample ballots, and this should be definitely specified in the presidential primary law.

Section 294.190 (Separate official ballots for political parties, nonpartisans) Subsection (2) would be inapplicable in a presidential primary and provision should be made to prevent any conflict. Obviously there would be no "Nonpartisan Primary Ballot", as provided for in that subsection.

Section 294.195 (Form of official ballots: Contents and arrangement) Subsection (5) provides for the alphabetical arrangement of candidates names. Should the legislature follow the suggestions of this study for the positioning of candidates names, this subsection would of course be materially different. The two elections would have different provisions for the listing of names on the ballot, since the presidential primary provision provides for chronological arrangement.

Section 294.200 (County clerk to determine size, shape of ballot) The reference to nonpartisan offices in connection with the ballot would be inapplicable.

Section 294.205 (Correction, distribution of official ballots, sample ballots by county clerk; number to be distributed) The reference to nonpartisan voters would not be applicable in subsection (3).

Section 294.210 (Ballots to be given to voters at primary elections) Subsection (2) is not applicable with reference to nonpartisans.

Section 294.215 (Officers of primary election: Procedure for selection; duties; compensation) In the instance of a presidential primary, reference to the month of July should be changed to some time in March in order to accommodate the May or June presidential primary.

Section 294.220 (Qualification of voters at primary elections) There would be no reason to change voter qualifications for the presidential primary and this provision need not be altered.

Section 294.270 (Duties of secretary of state after primary election) Subsection (1) should be expanded to include national convention delegates and presidential candidates with reference to the presidential primary. An elaboration on the duties of secretary of state will be necessary to instruct him in the determination of delegates elected in the event the legislature adopts the suggested provision on proportional representation.

Section 294.275 (Party nominees: Votes required; when names to be omitted from primary ballots). Subsection (2) will be in conflict with any proportional representation formula adopted by the legislature in connection with the presidential primary. Part (b) of this subsection may be interpreted broadly as being in conflict with the conduct of a presidential primary, and of course the retarding of names to be placed on the

ballot until the general election would be in complete disregard of the time at which delegate selections by the voter must be determined.

Section 294.285 (Tie vote: Determination by lot) Provisions in this section as to a tie vote for officers elected from more than one county would cause no change when applied to the presidential primary.

Section 294.300 (Vacancy in party nomination after primary: How filled) In the proposals of this study as to the filling of vacancies among the delegates, in some instances authority is given to the presidential candidate and in others, to the state central committee. This variance must be corrected if the legislature adopts the suggested provisions.

Section 294.310 (Petitions, designations to be filed 30 days before general election) Any vacancies in the presidential primary should be provided for prior to June. This must be considered and made a variance from the regular state primary law for the correct operation of the presidential primary law.

Section 294.355 (State Conventions: Time, place and actions) Because the action of the state central committee is required in a few instances under the provisions of the suggested presidential primary law, it becomes necessary that this committee be elected prior to the presidential primary. This section of the primary law provides for their election not later than mid May and therefore should not be changed since the presidential primary would not occur until late May or very early June.

Section 294.380 (Selection of delegates, alternates to national party conventions, national committeemen by state convention in presidential election year) Subsection (2) of this section would have to be largely eliminated from the primary law in the event the legislature should adopt any type of a presidential primary law. That part of this subsection, the selection of national committee personnel by the state convention, would be retained since the proposed presidential primary has no provision for their election by the voter. The presidential primary suggested in this study provides that any policies and platform planks fostered by the state convention shall be binding on delegates elected by the voter and shall be reflected in the delegate's conduct at the national convention, provided they do not conflict with policies of his presidential candidate. This policy making by the state convention might well be emphasized in the primary law, should that provision become a part of the suggested provisions for a new presidential primary to be adopted by the legislature.

Specific Provisions of a Presidential Primary Law For Nevada

Type of Presidential Primary

1. The presidential primary would be a preferential type.
Comment: This would allow the voter not only a selection of delegates but also provide for an expression of preference as to presidential candidate.
2. The ballot would be organized to allow for the "short ballot" feature.
Comment: One mark placed in a square would count as a preference vote for a presidential candidate and also delegates to support that candidate at the convention.

3. The presidential primary would be a "closed" primary election.

Comment: Voters would not be allowed to vote in the primary of a party in which they are not registered as in accordance with Sections 294.230 and 294.235, NRS.

4. To qualify for participation in the presidential primary of a party, the voter would be required to register for the party of his choice in the same manner as provided for in the regular state primary. (Section 294.220 NRS)

Comment: This measure provides for a closer control over just how "closed" the primary actually shall be.

Comment: Modification would be made to fit the specific provisions of the existing Nevada primary regulations so that no conflict at law shall exist.

5. The presidential primary might be held in conjunction with the state primary (Sections 294.035 and 294.075 NRS) or, in the light of past experience, held separately at an earlier date.

Comment: If both elections are held simultaneously the regular state primary would have to be moved to an earlier date.

Comment: In the case of the State of Nevada, there will be strong opposition to again advancing the date of the general state primary so that it falls early enough in the year to accommodate its holding with a presidential primary. This experience was gained when Nevada advanced the primary date in 1953. In the case of a state with such a small population, a long drawn out campaign between primary and general election is not advisable and strong opposition from most of the campaigners was expressed. It is a serious question, in the light of recent experience, whether the Legislature would again see fit to advance the date of the general primary. This single point might well defeat any attempt to re-enact the presidential primary.

6. The expense of holding a separate presidential primary would be provided. This relief would be necessary for the counties.

Comment: Although the expense of holding a presidential primary would be no small item, legislators might well favor having the cost assumed by the State once every four years, and holding the presidential primary early and separately from the general state primary. Their own personal cost of campaigning would be held to a minimum since the local campaigning would not be drawn out over any greater length of time than now. This conformity with democratic principles by the legislature would be a major contribution to the People of the State and indirectly to the Nation.

Comment: Reference is made to the State assuming the cost of holding the election. The several counties of the State are too hard pressed financially to assume any additional burdens and such expenses should be provided for by the State. The rate of reimbursement by the State to the several counties might be at the rate recommended in this study. See the provisions for financing separately held elections, Chapter VI.

Comment: A general problem involved in holding presidential primaries separately might be overcome by this state aid to the counties in the following manner. Presidential primaries held separately usually attract an even lighter vote than the general State primary. However, with the counties assured so many cents per vote, there would be great incentive to "get out the vote" as the actual cost to the counties per vote, on a

per-capita basis, would fall with an increase in turnout. While the rate at which the State would pay for the election would be based on a general average, the counties might well be able to more than break even through a large vote turnout. Conversely, a smaller voter turnout might hardly pay the expenses of holding the election, with the county having to make up the difference.

Comment: The Secretary of State would be charged with the responsibility of determining the vote cast in each county and with the disbursement of funds to the several counties in correlation to their vote cast.

Comment: The final choice between holding the primaries separately, or integrated, should be left with the Legislature. In the case of Nevada it is hard to see how the choice of either method would work against the best interests of the presidential primary.

7. The primaries should be held sometime in early June, or provisions made for a flexible date, say 30 days in advance of the first major national convention.

Comment: As late a date as possible should be chosen in the spring to insure an up-to-date list of presidential candidates and latest voter sentiment, and at the same time allow sufficient time for a canvass of the vote and issuance of certificates of election to the delegates. As conventions are held as early as June such a date represents that compromise.

8. Provisions would be made for a write-in vote for presidential candidates, including authority to organize and use the sticker system for placing a write-in vote on the ballot.

Comment: This feature insures the accommodation of a very late entry for a candidate who has little organization of a formal nature, but secures unusual popular support and national interest.

9. The presidential primary would be mandatory for all political parties that, in a recent major election, polled at least a certain percentage of the total vote for a major office.

Comment: This section would define a "political party" on past performance and would parallel Section 294.025 NRS.

10. New political parties would be allowed access to the presidential primary by a petition presented at least (60) days prior to the presidential primary.

Comment: This feature is designed for parties newly formed who would have no past record on which to base a definition of "political party." The petition would be signed by a specific number of registered voters as provided for in Section 294.025 NRS which is 5%.

11. Provision would be made in the law for "no contest!" In the event this provision applied to any party, the state central committee shall select the delegates.

Comment: This would be a very unlikely event particularly under the "draft" features of this outline, where a maximum number of candidates would be on the ballot. However, in such an event which might occur when a first term president is seeking renomination, no primary would be held for a party with one candidate entered, as provided for in Section 294.165 (3) NRS.

12. The presidential primary would be a proportional representation type. Delegates would be elected at large from numbered lists as far down each list as is justified by the proportion of the total vote cast for such list. The method to be employed in determining how many delegates are elected from a slate, shall follow "The Method of Equal Proportions" as employed by the Federal House of Representatives, except, that no candidate shall receive a minimum of one delegate by sole reason of having a delegate slate. A low vote candidate shall receive a delegate only if by awarding him a delegate such representation effects a better proportion among all candidates when employing "The Method of Equal Proportions."

Comment: Delegates would be awarded to presidential candidates on the basis of the percentage of the vote the candidate secured in his party primary. This feature is the opposite of the winner-take-all system under which a plurality vote secures all of the party delegates from a state to a presidential candidate.

Comment: It may encourage presidential candidates to enter state primaries where they can surely collect at least a useful minority of delegates as compared with the deterrent hazards of current "winner-take-all" practices.

13. Delegate candidate names would not appear on the ballot. The names of the delegates would be properly filed on lists with the Secretary of State and would appear on sample ballots distributed prior to the election, as public evidence. (Section 294.175 NRS) 21 days prior to the election.

Comment: Notation would be made on the ballot that such a slate exists and that a vote for the presidential candidate is a vote for his delegates.

Comment: It has proved undesirable to list the delegates on the ballot for two chief reasons: (1) The physical aspects of a short and simple ballot are not maintained; (2) Delegate names may in some cases assume such prominence with the voter that he may vote for delegates as such, not realizing that, though they are popular with him, they may not represent the voters "man" for president.

Concerning the Presidential Candidate

(Strict instructions and mandatory language must be incorporated in the Act to insure the action of officials on these points and to insure the voter a choice from among ALL the major candidates)

1. The consent of any presidential candidate would not be required for inclusion of his name on his party's presidential primary ballot of the State, by either draft or committee method of entry.

Comment: Where consent is allowed or required, the presidential candidates pick and choose what primaries they will enter, making the results inconclusive, with the voter unable to select from among the major contenders.

2. The withdrawal of a presidential candidate from the primary would be prohibited except in very specific cases and with strict provisions. Where matters of health and pressing personal reasons exist, the presidential candidate would be able to withdraw by filing with the Secretary of State signed statements that he does not wish his name to be considered

by the convention, that he is not seeking the nomination, and that he is not presently entered in a primary of any other state, and further, will not enter the primary of another state in this presidential year.

Comment: Without this strict provision the draft feature of the primary would have little effect as the candidate so drafted could easily withdraw. These statements with regard to his withdrawal, if he should choose to make them, are of a nature to make it impossible virtually for him to be actively seeking the nomination while escaping the State presidential primary.

3. Provision would be made in the law for the inclusion of information relative to address, occupation, background, etc., to be included on the ballot in conjunction with the name of the presidential candidate TO BE USED ONLY in the event duplicate names would appear on the ballot.

Comment: Old political hands could make use of this ruse to cut down and make impossible the primary count by entering a person with the same name as the opposition faction candidate. The provision would make such an entry ineffective by providing for a clear identity between similar names.

4. Access to the ballot would be provided through any one of three methods, as follows: All filings, proposals by groups of 10, and petitions shall be submitted through the secretary of state at least (40) days prior to the election.

Comment: It is necessary to the effective operation of the presidential primary to make access as easy as possible to the candidates. However, at the same time screening out those who are publicity seekers and "favorite-son" candidates, who operate only to control delegate votes to be released for barter purposes.

- (A) A simple declaration and filing fee, to be returned if the candidate polls 10% of the vote. HOWEVER, to enter the presidential primary of his own State, a Nevadan would be required to submit a petition containing signatures of 5% of the vote case (as defined in Section 294.025 NRS) for each of the 17 counties of the State. The simple declaration (Sections 294.115 and 294.125 NRS) required in any event would contain a pledge that the candidate is "honestly seeking the nomination for President." FURTHER, in the event that a candidate seeks to be entered on the primary ballot of the State and it is established that he is not entered on the ballot of any other state, district, or territory of the Nation, the Secretary of State shall be required to challenge his entry as a person not "prominently mentioned," and refuse to accept his declaration and filing fee.

Comment: The provision for Nevada candidates is designed to restrict the entrance of a purely dummy candidate to secure delegates to be later controlled by indirect action of a State "machine." The purpose of a filing fee (Section 294.145 NRS) to be returned is proposed to keep crack-pot candidates out, especially if the fee is made substantial, and the percentage vote kept low enough so as not to discourage true aspirants. In cases that smack of publicity-seeking or dummy candidate control, where the candidate is not entered in any other state presidential primary, his application to file will be refused by the secretary of state. A careful balance must

be maintained in this section which will not thwart the intentions of a "true" candidate yet openly invite his participation by the easiest method of entry, and at the same time prevent the entry of those who would use the primary for other purposes.

- (B) Access to the ballot would also be provided for by a system of sponsorship by 10 or more qualified electors (Section 294.130 NRS) who would wish to openly draft a presidential candidate well in advance of the final "draft" measure. A group forming such a committee could propose a candidate and a delegate slate with said committee sponsoring the filing fee. In the case of sponsorship of a Nevadan the same petition as given in a personal direct filing would apply with regard to signatures of registered voters of his party. The provision for the necessity of non-Nevadans to have been entered in some other state would apply here also.

Comment: This method would enable any group to propose a nationally prominent candidate in the event he failed for some reason to make use of the direct approach. It would further assure him of support of delegates unmistakably pledged to his candidacy as provided for in other sections of the model, and differing from the final "draft" provisions as given in the last method of entry.

Comment: As under access method "A", the secretary of state would refuse to accept those not "prominently mentioned."

- (C) In the event national figures have failed to enter the Nevada Primary by either personal filing or by sponsorship of a state committee, then at any time after the last filing date and prior to (35) days before the election the secretary of state shall be authorized and specifically instructed to follow this last procedure to secure a complete ballot for the voters of the political parties. (Authority and method to make the determination should be specifically defined.) Candidates for presidential nomination who have been entered in at least two or more states, districts, or territories, shall automatically be listed on the Nevada ballot; provided however, that these presidential candidates are entered in presidential primaries of political parties qualified as such under Section 294.025 NRS. A definition of "entered in" would include any states, districts, or territories where a presidential candidate, or a group sponsoring one, has filed for entering a contemporary year presidential primary and has been accepted. This shall be extended to include all presidential primaries where a candidate is entered for either a preference vote only or being supported by a delegate slate. Declarations, filing fees, and other statements would not be required, HOWEVER, in the event the candidate won any of the States delegates he would have no choice as to who would represent him at the convention as delegates. This manner of completing the ballot by draft to secure all presidential candidates for voter selection would be made just prior to the primary itself.

Comment: The tardy use of this provision would be for obvious reasons such as: (a) Giving the candidates full opportunity to enter by either of the other two provisions which would provide for their control of delegates: (b) Providing the Secretary of State with the very latest entry fields in other States so a correct determination can be made to see if any candidates exist who should be so drafted.

Comment: With the draft proposal no delegate selection is allowed the presidential candidate. Without this provision, candidates might elect to use the final access provision to escape the filing fee and statements. Should he elect to do so, he would of course lose some measure of protection with his delegation, hardly worth chancing over a returnable filing fee.

Comment: In actual practical application the very inclusion of this final access method of "draft" entry will practically insure that candidates will be entered in the presidential primary by the preferred methods (A) and (B). That a presidential candidate would wait for such a draft provision to apply is difficult to envision, knowing that he will eventually be placed on the State primary ballot. And further, knowing that, under this "draft" entry he will have far less delegate control, his consent as to who his delegates are being provided for only under entry by (A) and (B) methods.

5. Position on the ballot would be determined in the following manner with respect to the presidential candidate names:

- (a) Presidential candidates who enter the primary by their own action through a simple declaration would be listed from left to right in chronological order of their initial declaration and without regard to the time they submit their completed list of delegates.
- (b) Candidates who have been entered in the primary through action of a committee formed in their behalf shall be entered next on the ballot, after all positions have been determined for entries under (a), above. This entry of candidates by committee action shall also follow chronological order, and such order shall be determined by the time a COMPLETED NOMINATION with full list of delegates acceptable to the presidential candidate has been accepted by the Secretary of State.
- (c) Candidates who are entered by the draft provisions of (C) shall be placed upon the ballot next, alphabetically, since no chronological order could be established for them.

Comment: Preference to the best positions on the ballot should be given to presidential candidates who are willing to enter the primary immediately without the encouragement of a committee or by forced draft.

6. The Secretary of State shall certify to the county clerks of each county the presidential candidates who have been entered in the presidential primary by any and all of the three entry methods at least (30) days prior

to the election as provided for in Section 294.160. Also he shall provide the county clerks with a certified list of delegates who are filed in support of these candidates and instruct the county clerks regarding the provision that they be published and printed in conjunction with the sample ballot, along with an indication that the first delegate on each list is its organizing chairman.

Comment: Time elements must receive careful consideration to allow for the efficient operation of the county officials in the preparation of ballots and execution of the election.

Provisions With Regard to Delegates

1. All delegates of the political parties from the State of Nevada would be elected at-large.

Comment: As Nevada has no congressional districts this method would be obvious in the absence of some artificial districting of the State. The delegate-at-large method also gives a better distribution of the vote in a proportional system of electing delegates, with minorities better represented in the total vote of the state.

2. The number of delegates to be selected from each state to the National Conventions is regulated by the political parties of those conventions. The notification relative to the current number of delegates allotted the political parties shall be made by the chairman of the state central committees to the Secretary of State in writing 90 days prior to the first major presidential primary. Failure of the chairman of these committees to file such a written statement would authorize the Secretary of State to ascertain the proper number by examination of the "Call for the National Convention" issued by the national committees of the parties.

Comment: This provision is a formalization of obvious knowledge, but would be provided for should there be some question relative to the number of delegates allotted to Nevada by the parties. The apportionments vary from one convention year to the next.

3. The secretary of state shall notify the county clerks of each county relative to the number of delegates to be elected for each political party and that a presidential primary election is to be held on a certain date, (80) days prior to the holding of a presidential primary election.

Comment: Follows a similar provision, Section 294.095 NRS.

Publication of such notice from the secretary of state shall be made by the county clerks within (10) days after receipt.

Comment: Follows a similar provision, Section 294.100 NRS.

4. A candidate for delegate to a party convention shall be an enrolled member in the political party of the convention he is to attend. He shall also have been a member of that party for a specified period of time in accordance with and parallel to Section 294.125 NRS.
5. A delegate would be required to receive the consent of the presidential candidate before entry on the ballot when the presidential candidate enters the primary election by direct action or a committee formed in his behalf, provisions (A) and (B) of Section 11, #4. The signature

of the presidential candidate shall be required on delegate slates presented.

Comment: In order to secure the best possible delegates, the presidential candidate should be allowed this advantage and a more binding delegation in his behalf. The presidential candidate is not likely to refuse whole slates of delegates to prevent his entry under provisions of the (B) method, as he realizes he would eventually be drafted under the draft provision and lose all control of who were to be his delegates. Should the presidential candidate initiate the action directly (A), he should be allowed to select his delegates.

Comment: The practical application of this provision will result, in most cases, in the close cooperation of both the presidential candidate and his state committee with regard to a slate of delegate candidates, regardless of whether he is entering under method (A) or (B).

6. Delegate candidates shall not be included on any lists presented to the Secretary of State without their consent. Their acceptance shall be verified by the delegates' signatures on all slates presented to the secretary of state by either the candidate directly or a group formed in his behalf.

Comment: There is no necessity to draft delegates as there is with presidential candidates. It is most important that delegates be selected, and on lists of candidates, with their full knowledge and in complete sympathy with the candidate for president.

7. Names of candidates for delegates to the National Convention, in number equal to the number of state-at-large delegates allowed that party by the National Convention, shall be selected by and presented to the Secretary of State by presidential candidate himself in the event he is entering the primary under provision (A), (by simple declaration). The list or slate of delegates shall be presented when the candidate files for entry in the presidential primary.

Comment: Under most state conditions a high degree of organization may be necessary for a presidential candidate to be able to submit a list of delegates himself as herein provided for, particularly where there would be a great number of them from many congressional districts. Nevada's situation in regard to this modifies considerably such normal consideration where the entire state delegation is small. The presidential candidate may, however, very well wish the cooperation of the state committee operating in his behalf to make the delegate selection as provided for in these suggested provisions. HOWEVER, provision should be made for a candidate for president to choose his delegation in the event there may be no committee organized for his support in the State. In practical application, it is strongly suspected that there would normally be very close cooperation between the presidential candidate and any committee formed in his behalf, and that the matter of delegate selection would be made by joint action of the candidate and his committee, whether or not it was formally announced as his own or the committee's. Since the presidential candidate maintains complete control under the provisions of these suggested provisions with respect to consent of a delegate to run in his behalf (unless drafted under access method (C)) no slates or lists could be presented which would encumber the ballot by having two groups entered in his behalf, the presidential candidate selecting the list in such an event.

Comment: The voters have a better guarantee that delegates will support candidates when chosen by this method.

8. Should the presidential candidate be entered by the action of a small committee, as under access method (B), such committee shall present a list of delegates in number equal to the number of state-at-large delegates allowed that party by the National Convention at the time the group initiates the filing action.

Comment: As provided for elsewhere in this draft, the presidential candidate shall have the right to accept or reject such delegates, and his approval would be necessary for the entire list.

9. Presidential candidates who are drafted by the suggested provisions under access method (C) must be represented at the convention by delegates. Delegates are selected by the candidate himself or by a committee working in his behalf in access methods (A) and (B), to be placed on the sample ballot of the presidential primary.

The State Central committee would be given the authority to appoint any such delegates won by such a drafted candidate after the election when the number of them would be known.

Comment: Two objections might be raised in regard to this practice: (a) That the delegate so selected might have limited interest in the presidential candidate he is representing, and while formalized voting might be carried out at the convention, the delegate(s) might not be aggressively working in his behalf in other matters; (b) Also, under this system, that part of the presidential primary in effect would become only a preference vote for presidential candidate with appointed delegates by the old state machines.

Comment: However, there is an important reason why the presidential candidate should not be allowed to choose his own delegates: He might elect to enter the primary through the use of the "draft" method, escape a filing fee, and gain an advantage over those who work in close cooperation with a committee within the State under the preferable method of being placed on the ballot by (A and B).

10. The very same problem would develop in the event a write-in-vote presidential candidate garnered enough votes to be allowed delegates.

Comment: In this particularly rare case a candidate commanding a vast public mandate to secure delegates would be allowed to select his delegates (as provided for in access method "A") after the election when the number of them would be known.

11. There would be no provision in the law for a no-preference group or lists of delegates.

Comment: Although in rare cases it might be advisable for the voting public to send an uninstructed delegation, it is felt with the full slate of aspirants available under the suggested provisions, such cases would be practically non-existent. Also, thought should be given to the fact that an uninstructed delegation (made up of no-preference delegates) is difficult

for the voter to control and may very easily fall prey to a political machine that may have placed the delegates in the field for that specific purpose. With the 22nd amendment in effect, situations which would be desirable for a no-preference slate are further remote.

12. Alternate delegates would not be elected at the primary but would be selected as follows:

(a) For delegates representing a presidential candidate who polled less than 50% of the total vote of his party, the delegate would choose his own alternate.

(b) For delegates representing a presidential candidate who polled more than 50% of the total vote of his party, or any delegates representing a presidential candidate who has a plurality vote in the election, the delegates of that candidate shall meet in a body and make provisions for their alternates.

Comment: This latter provision is to allow for the representation of possible state committee people and other party prominents who may not have been elected as delegates, should the delegate body see fit to include them. These party people could then be a part of the delegation to the convention but only as alternates, a somewhat honorary position. The presidential candidate with the high vote would actually be in a position to make such decisions regarding these honorary positions by instructions to his delegates who meet in a body to make the formal decision.

13. Any lists proposed by the presidential candidate under access method (A) or by a committee as in access method (B) shall be presented with the indication that the delegate candidate listed first on the slate shall be the ORGANIZING chairman of the group and such notation shall be made on the sample ballot and papers filed with the Secretary of State to that effect. After the number of elected and appointed delegates are known, based on the proportional plan, such delegates shall meet as a body and choose their permanent chairman for the entire delegation.

Comment: Organizing chairmen lend efficiency to pre-campaigning slates.

Comment: In all probability, the slate which secures the most delegates will be in a position to select the permanent chairmen from among their number.

14. No names of any delegate candidate shall appear on more than one list.

Comment: Moral commitment to one candidate only, should be maintained.

15. No more than three delegates shall be residents of the same county on any slate representing the presidential candidate. Also, delegates would be distributed in the list so that delegates who are residents of the same county would not be positioned on the list in such a manner that not less than (2) other delegates from other counties are placed between them.

Comment: The first part of the provision provides that a list of delegates have geographic representation throughout the State. The second part of the provision would prevent the bunching of delegates on the list to give an advantage to

one county over another should only a part of the list be secured for the candidate under the proportional system.

16. Provision would be made in the presidential primary law for the removal and addition of delegate names to slates pledged to presidential candidates by the organizing chairman, to accommodate such occurrences as death, disability, resignation, etc., prior to the election.

17. No formal pledge of support would be required of candidates for delegate moral commitment implied by the association on the ballot by name (sample ballot) and by notice on the real ballot, and, further, on the official delegate list filed with the Secretary of State.

Comment: Provision for failure to vote for the candidate until formal release is given elsewhere in these provisions as a penalty for obvious evasion of this responsibility.

Comment: The best insurance that delegates will support the candidate is provided by making sure all the major candidates are on the ballot and that the delegates thereby have a true mandate from the people of the State. This has been provided for in the presidential provisions for ease of entry to the Nevada primary and automatic entry by draft, taken from primary lists of other states. This should provide that all major candidates would be available on the Nevada primary ballot for consideration by the voter.

18. Delegates shall be automatically released in the absence of a formal release by the presidential candidate they represent, under the following conditions. Automatic release shall be effective when, after the third convention ballot has been taken, their candidate shall have received less than 10% of the total vote cast on that ballot. Provided further, that in the event their presidential candidate shall receive 10% or more of the convention vote at any later balloting of the convention, the delegates of such presidential candidate shall again be bound to vote for their candidate as long as he shall maintain 10% or more of the convention vote. Provided further, that these provisions shall not be construed to imply that the automatic release provision is mandatory and that delegates are forced to abandon their candidate. They may act with their own discretion in the matter as to whether or not they will continue to support their candidate.

Comment: Presidential candidates at the point of defeat are rarely in the right emotional condition to exercise sound judgment in deciding when to release their delegates. This provision will insure a release for any delegate who feels that it is in the best interests of the state to be released.

19. Provision would be made in the primary law that any delegate elected to the convention would not only support the candidate for president, but shall also support whatever platform or general policies that have been adopted by the party at its State Convention, PROVIDED HOWEVER, that in the event any policies and platform planks shall be in direct conflict with those of the specific candidate he has been elected to support, he shall be exempt from the provisions of this section.

Comment: This would provide for an expression of the State Party at the National Convention through the elected delegates on issues which the State Convention wants action or wishes to take a stand.

20. Closing dates for both delegates and presidential candidates would be (40) days prior to the presidential primary.

Comment: This would provide for the very latest situation to be reflected in the primary. However, time would be provided for the mechanics of printing and for the Secretary of State to compile information for the ballot to be disseminated to the county officials.

21. An alternate delegate shall not vote in place of the delegate whom he represents unless a written notice of such authorization, signed by the regular delegate, is provided the delegation chairman. Such authorization would not be required in cases of death or disability of the regular delegate; the alternate automatically would take his place.
22. Provision shall be made for the secretary of state to issue a statement showing the total vote of the state by political party and the number of votes necessary (under the proportional plan) to secure a delegate. He shall then determine which delegates have been elected at large in the political parties, as far down each numbered list as justified by the proportion of the total vote cast for such slate. He shall employ "The Methods of Equal Proportions" as defined under "Type of Primary." The Governor shall issue certificates of election to these delegates in ample time to be presented to the National Conventions.

Comment: The number of votes necessary to secure a delegate is determined mathematically by adding the total number of votes cast for all candidates of a political party divided by the total number of delegate votes allowed the state by the political party. Such computation establishes the number of preference votes necessary to secure one delegate, and forms the basis for employing "The Method of Equal Proportions."

CHAPTER VI

FINANCING A SEPARATELY HELD PRESIDENTIAL PRIMARY ELECTION

Reasons for a Separate Presidential Primary For Nevada

The advisability of holding the presidential primary and the regular state primary at the same time are open to serious question here in the State of Nevada.

The reasons are usually for the purpose of reducing the cost of separate elections. Also, this requires the voter to go less frequently to the polls. In states with a large population and in many congressional districts early regular state primaries are often advisable because several months are required to adequately campaign the state before the general November elections.

In Nevada, to hold the elections simultaneously, the regular state primary election would have to be advanced from September to at least a late May or very early June to accommodate the presidential primary. In order to select delegates or obtain a preference vote on presidential candidates, presidential primaries should be held earlier in the year thus making possible the translation of voter decisions to the conventions, which may be held any time between early June and late August. Naturally, a presidential primary could not be held in conjunction with a September regular state primary.

Quite recently Nevada had a practical experience when the regular state primary date was advanced to early June 1954. The advanced date was in accordance with the presidential primary law enacted by the legislature in 1953 and repealed in 1955. The presidential primary aspect never was activated in a presidential year but did affect the date at which the regular state primary was held in 1954. The 1953 Nevada Presidential Primary Law was written with the provision that the regular state primary be advanced to early June in order to accommodate holding presidential primaries. Although the presidential primary was to be held only once every four years it also required that the regular state primary be held at the earlier date every two years.

Aside from political considerations, it is a question of whether the state with the smallest population in the nation is in need of almost a half-year for a campaign period between its primary election and the general election (June to November). In addition, over seventy percent of the state's population resides in two of the states counties, easily campaigned with a minimum of travel and effort when compared to other states (See chart #2). Professional politicians and the public were very critical of the situation which existed in 1954 when the campaign period was more than doubled. Increased costs due to campaigning over a longer period of time, incumbents' absences from their offices, and a long period of uncertainty are not desirable or necessary in the Nevada situation. Table No. 4 shows how the states either combined the presidential primary with the regular state primary or held the presidential primary separately, for the presidential primary years of 1952 and 1956.

CHART 2

PERCENTAGE OF TOTAL STATE POPULATION CONCENTRATED IN CLARK AND WASHOE COUNTIES

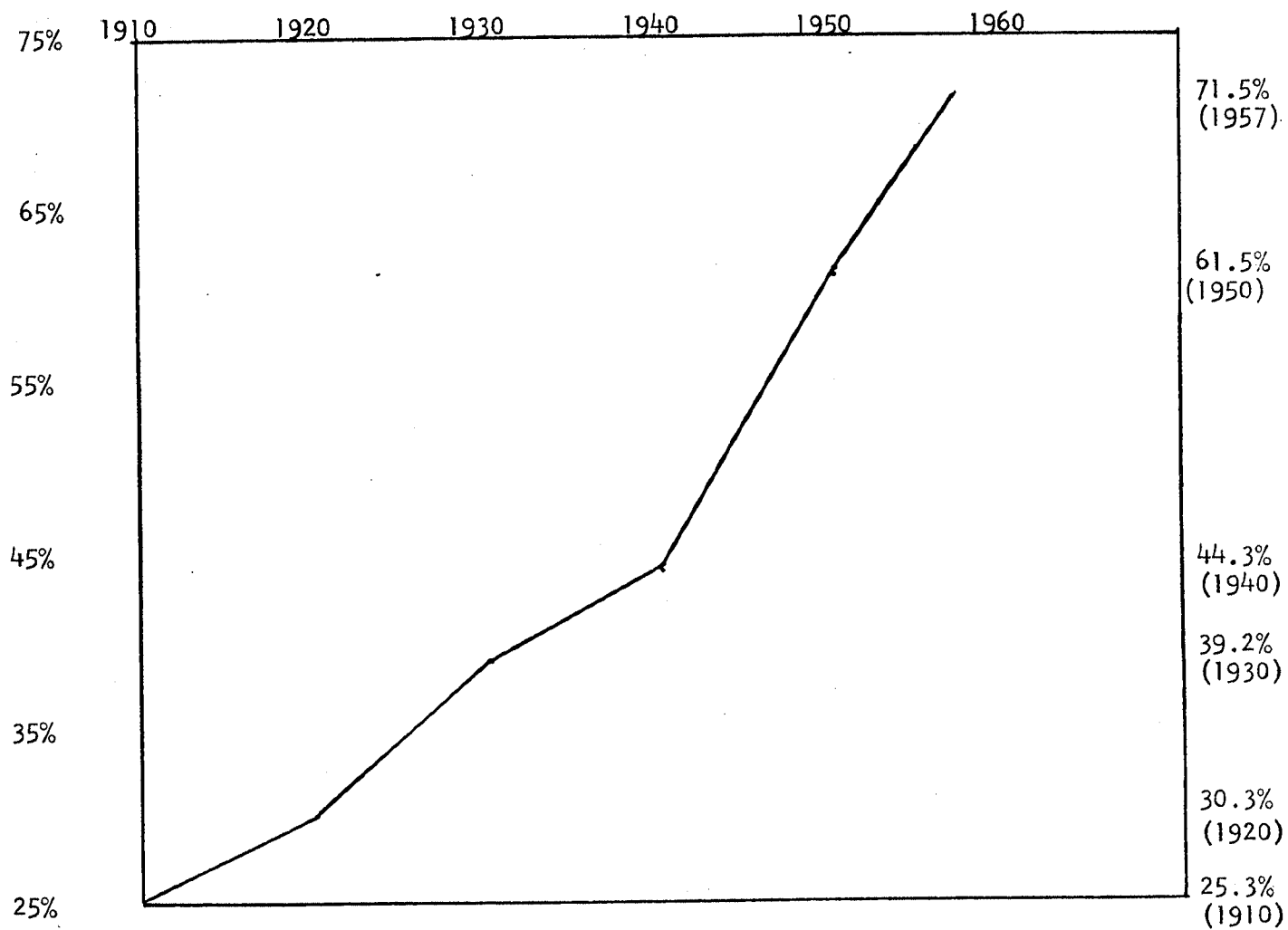


TABLE 4

METHODS USED FOR HOLDING PRESIDENTIAL PRIMARIES (With Reference to Combining With State Primary)

1956 Presidential Primaries

STATES WHICH HELD PRESIDENTIAL AND STATE PRIMARY:

<u>On Same Date</u>	<u>In Advance of State Primary</u>	<u>No State Primary</u>
1. Alaska	1. Massachusetts	1. California
2. Florida	2. Minnesota	2. Indiana
3. Illinois	3. New Hampshire	3. Maryland
4. Montana	4. Wisconsin	4. New York
5. Nebraska		
6. Ohio		
7. Oregon		
8. Pennsylvania		
9. South Dakota		

1952 PRESIDENTIAL PRIMARIES

STATES WHICH HELD PRESIDENTIAL AND STATE PRIMARY:

<u>On Same Date</u>	<u>In Advance of State Primary</u>	<u>Held After State Primary</u>
1. Alabama	1. Arkansas	1. South Dakota
2. California	2. Massachusetts	
3. Florida		
4. Illinois		
5. Iowa		
6. Maryland		
7. Nebraska		
8. New Jersey		
9. Ohio		
10. Oregon		
11. Pennsylvania		
12. West Virginia		

Estimate of County Cost For a Presidential Primary

In the foregoing section of this chapter the reasons are set forth regarding the desirability of holding presidential primaries separate from the regular primary election. Separate elections immediately pose a problem of expense and although this added expense would occur only once every four years, there should be adequate provisions for financing a presidential primary in the light of the economic condition at the county level.

Some estimate of the cost is obtained from Table number 5 which shows the costs to the counties for holding primary elections in 1956. General election expenses ran considerably higher than primary elections and accounted for 63% (\$152,909) of the total election expenses in contrast to primaries which in 1956 were 37% (\$88,685) of the total. Printing costs contribute to the higher costs for general elections which may contain several complex questions with explanations to be voted on, in addition to candidates who must be listed even though there is no opposition. These printing factors, in addition to greater quantities of ballots needed for the general elections, more than balance the costs of two different but simple ballots which are necessary for the primaries. Other factors which increase general election costs are related to the increase of personnel required to handle larger load factors at the polls and the tabulation of the larger vote cast. There is every reason to believe that in practically all cases a presidential primary ballot, employing the short ballot feature of the proposed legislation of this study, should cost less than the regular primary ballot. With other factors equal, a presidential primary would cost less than the regular primary.

Another consideration of cost is associated with the population growth of Nevada and the resultant increase in potential voters. Currently, Nevada has the highest percentage growth rate in the Nation. That any large increase in population would automatically result in a corresponding relative rise in election costs is greatly modified by the following data. Information obtained from Table number 5 indicates that large numbers of voters do not necessarily increase voting costs to the extent that might be expected. Nevada's increase in population is largely associated with her two heavily populated counties. When large numbers of voters are processed through an election system the per capita cost of conducting the election decreases. Washoe County had a cost of only 77 cents per vote in the 1956 primary election and none of the counties with large populations went over the \$2.00 figure. However, counties with small populations like Storey, Eureka, and Lander all had a per capita vote cost in excess of \$3.00. There is some indication that the geographical distribution of the voters effects costs as shown by the Ormsby County vote cost of \$1.14 where voters are concentrated as compared to the Elko County voter cost of \$1.79 where population is scattered over a large area. In view of the evidence that counties with large populations have low voter costs and account for the major population increases, the current rate of growth for Nevada would not be a large factor in causing the same ratio of increase in primary election expenses.

Taking into consideration the two factors of lower printing costs for a presidential primary and increasing population, it would appear that they tend to balance one another since they operate in different cost directions. Therefore, this study would endorse a figure close to the cost of holding the 1956 primary election as being a strong indicator of an estimate for holding a presidential primary in Nevada for the year 1960.

T A B L E 5
GENERAL AND PRIMARY ELECTION COSTS AND POLL TAX DATA

Counties	1956 Elections	1956 General Elections		1956 Primary Election	1956 Primary Election	1956 Primary Election Data		1956-57 Poll Tax Data			
	Total Election Expenses	General Election Expenses	General Election Vote	Primary Election Expenses	Primary Election Vote	Primary Election Expense -% of Total Cost	Per Capita Cost of Primary Election Vote	Poll Tax Receipts	Population of Counties 1/1/57	Per Capita Poll Tax Receipts	Estimated Additional Receipts @\$4
Churchill	\$ 7,619.19	\$ 4,741.49	3,155	\$ 2,877.70	2,043	38	\$1.41	\$ 4,851.00	8,000	\$.61	\$ 1,617.00
Clark	113,169.92	73,909.86	38,403	39,260.06	25,715	35	1.53	81,516.00	98,100	.83	27,172.00
Douglas	3,688.96	2,099.46	1,336	1,589.50	957	43	1.66	1,650.00	2,400	.69	550.00
Elko	13,905.07	9,140.56	4,876	4,764.51	2,656	34	1.79	9,891.00	14,000	.71	3,297.00
Esmeralda	2,454.62	1,747.98	298	706.64	263	29	2.69	381.00	500	.76	127.00
Eureka	2,372.27	1,412.40	529	959.87	295	40	3.25	1,422.00	800	1.78	474.00
Humboldt	6,653.76	4,697.96	2,174	1,955.80	1,260	29	1.55	4,947.00	5,500	.90	1,649.00
Lander	3,645.95	2,004.79	841	1,641.16	538	45	3.05	1,503.00	2,100	.72	501.00
Lincoln	5,117.70	3,068.30	1,727	2,049.40	1,389	40	1.48	3,612.00	4,200	.86	1,204.00
Lyon	7,438.11	4,413.73	2,523	3,024.38	1,626	41	1.86	4,059.00	5,000	.81	1,353.00
Mineral	10,719.96	5,086.13	2,937	5,633.83	2,178	53	2.59	4,995.00	9,000	.56	1,665.00
Nye	6,169.83	3,906.87	1,747	2,262.96	1,404	37	1.61	1,926.00	3,200	.60	642.00
Ormsby	5,326.80	3,292.94	2,585	2,033.86	1,790	38	1.14	3,558.00	6,000	.59	1,186.00
Pershing	5,349.29	3,319.14	1,488	2,030.15	900	38	2.26	2,985.00	3,800	.79	995.00
Storey	2,913.00	1,908.01	382	1,004.99	301	35	3.34	228.00	700	.33	76.00
Washoe	37,491.61	23,951.22	28,783	13,540.39	17,633	36	.77	48,774.00	73,200	.67	16,258.00
White Pine	7,558.50	4,208.50	4,770	3,350.00	2,687	44	1.25	11,268.00	10,500	1.07	3,756.00
State Totals	\$241,594.54	\$152,909.34	98,554	\$82,685.20	63,635	37	\$1.39	\$187,566.00	247,000	\$.76	\$62,522.00

Provisions For Financing A Separate Presidential Primary

The establishment of an estimate of cost leads directly into the realm of providing the funds for such expense. There must be a logical source from which the funds would be obtained which will not work toward any measurable hardship of increased taxation and a source which will not divert from other worthwhile and established activities. Since elections and poll taxes have a strong association in the minds of citizens, this area might be explored with a view toward financing elections. Although poll taxes are in reality a "head" tax they are commonly employed in association with voting. This is certainly a more logical orientation than in support of roads and highways to which they are now tied and which have their own specific taxes.

The constitution of the State of Nevada provides for a poll tax in Section 7, Article 11. The constitutional limits for the tax are set as any figure between \$2.00 and \$4.00. The present law governing the rate provides for a \$3.00 poll tax with an obvious increase allowed by the constitutional provision of \$1.00. As a source of revenue to finance a presidential primary election once every four years, it is suggested that the legislature increase the poll tax from \$3.00 to \$4.00. The increase in revenue which would be available to the counties could be employed to pay the costs of a presidential primary election and in addition would pay for the major share of expenses of holding the regular primary elections twice in the same four year period. This estimate is made from data obtained from Table number 5 as follows:

Increase of \$1.00 in poll tax to finance a presidential primary election

Available revenue over four years at annual figure of \$62,522	\$250,088
Cost of holding a presidential primary election	<u>88,685</u>
Balance available to finance regular primaries	\$161,403
Cost of holding two regular primary elections @ \$88,685	\$177,370

From the above data it can be seen that with an increase of \$1.00 in the poll tax rate, there would be available far more than necessary to finance a presidential primary election. With a view toward county level election assistance, the balance could be used to pay for most of the expenses of holding the two regular primary elections which fall in the four year election period covered by a presidential primary.

However, the constitution now provides that moneys collected from poll taxes be spent for maintenance and betterment of public roads. It would be necessary for this provision in the constitution to be changed.

In the event the constitutional provision was modified by elimination of the road provision, these changes would be required in the present poll tax law.

- (1) Provide for an additional dollar to be collected from the poll tax with a \$4.00 rate established.
- (2) The additional \$1.00 shall be for the exclusive use of the county governments of the state and may be used to finance presidential primary elections and other elections.
- (3) The remaining \$3.00 of the poll tax would not be for the exclusive use of county governments in those counties where part of the poll tax is now turned over to city or town governmental units. The \$3.00 would also remain as moneys to be used for the betterment of public highways and roads as provided for under existing law.

Although not necessary to the financing of the presidential primary and other elections, it is also recommended that the following exception be eliminated from the constitutional poll tax provisions:

Constitution of the State of Nevada, (Section 7, Article II)
... (uncivilized American Indians excepted) ...

This suggestion is made in view of Nevada's general policy which places the American Indian on an equality basis with all other races. Also, because of the obvious impossibility of determining a classification for Indians based on the adjective "civilized". The following information may throw some light on the origin of the provision and point out the archaic character of such wording.

The "uncivilized American Indians" was part of the original 1864 constitutional provision regarding poll tax and although the poll tax section was amended in 1910 reference to the exemption of Indians remained, as well as the antique terminology employed to define which Indians were exempt. Undoubtedly the term "uncivilized", as originally employed in 1864, had some correlation with the separate treatment accorded Indians by the Federal Bureau of the Census in 1860, 1870 and 1880. At these three decennial census, the Bureau distinguished between Indians living among the general population and Indians living on reservations or beyond the settled frontier. This latter group was not included in census reports and no attempt was made to enumerate them and include them in final totals for the states and territories until the 1890 census. The original intent of the poll tax measure may have been patterned after this early concept of a classification for Indians based on how readily they were available for enumerating and tax collecting purposes. However, the term "uncivilized American Indians" is interpreted today as excluding Indians in general.

Very likely the elimination of the Indian provision would result in additional poll tax revenue to equal the slight amount by which the \$1.00 increase in poll taxes falls short of financing not only the presidential primary but both general primary elections for the four year period.

Important to the consideration of changes recommended to finance a presidential primary is the fact that no funds are diverted from present channels. The \$3.00 poll tax revenue would still be available at the county or municipal level for the use of roads. In addition to financing a presidential primary, the revenue from an increase of \$3.00 to \$4.00 would be available to the counties at their discretion for financing other election expenses such as primaries held during a four year period.

Since any constitutional changes could not be effected in time for the holding of a presidential primary election in 1960, some interim financing would have to be provided by the legislature for the 1960 presidential year. This might be a direct

appropriation pending the final approval of constitutional changes to place the presidential primary system on sound financial footing.

So far a discussion of election expenses has been confined to a consideration of those expenses as far as county governments are concerned. The office of the secretary of state should also be considered as to what additional work load would accrue with the inception of a presidential primary.

The type of presidential primary recommended by this study eliminates practically all of the cumbersome and complex nomination and filing papers which were formerly a part of the old presidential primary and which as has been pointed out in the study worked such an impossible hardship on both the county officers and the secretary of state. The major tasks which fall to the office of the secretary of state are concerned with a determination of what presidential candidates are to be entered by the draft feature and a determination of what delegate candidates are elected from the lists of delegates supplied by the candidates. Although the extra work load placed on the secretary of state under the provisions of the new presidential primary election law are but a small fraction of that which would have been necessary under the original law, the following recommendation is made:

The secretary of state should be provided with sufficient funds, as part of the general appropriation to the office, which would allow the employment of a sub-officer to be in charge of all election matters exclusively. The monumental work connected with elections (disregarding a presidential primary election) would warrant such a recommendation and the legislature would be well advised to consider an appropriation for a sub-officer.

A PROPOSED JOINT RESOLUTION RELATING TO POLL TAX

SENATE JOINT RESOLUTION--Proposing an amendment to section 7 of article 2 of the constitution of the State of Nevada.

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That section 7 of article 2 of the constitution of the State of Nevada be amended to read as follows:

Section 7. The Legislature shall provide by law for the payment of an annual poll tax of not less than two, nor exceeding four, dollars from each male resident in the State between the ages of twenty-one and sixty years [(uncivilized American Indians excepted) to] . If the tax is fixed at three dollars or less, the entire amount of each such tax collected shall be expended for the maintenance and betterment of the public roads. If the tax is fixed at more than three dollars, all excess over three dollars of each such tax collected shall be for the exclusive use of the county governments.

CHAPTER VII

A PROPOSED ACT TO CREATE A PRESIDENTIAL PRIMARY LAW IN NEVADA

SUMMARY--Creates presidential primary election.

AN ACT to amend Title 24 of NRS relating to elections, by establishing presidential primary elections, regulating their conduct and providing for their financing; to amend chapter 225 of NRS, relating to the office of secretary of state, by creating the office of deputy for elections; to amend NRS section 294.380, relating to selection of delegates, alternates and national committeemen; to amend NRS sections 363.020 and 363.170, relating to the poll tax, by increasing the poll tax \$1 for the exclusive use of the counties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY,

DO ENACT AS FOLLOWS:

Section 1. Title 24 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth in sections 2 to 59, inclusive, of this act.

Sec. 2. Presidential primary elections shall be conducted under the provisions of this chapter exclusively, except where otherwise specifically provided in this chapter.

Sec. 3. This chapter shall be known and may be cited as the Presidential Primary Law.

Sec. 4. As used in this chapter, unless the context otherwise requires, "November election" means the regular general election for the election of state and county officers held on the 1st Tuesday after the 1st Monday in November of each even-numbered year.

Sec. 5. As used in this chapter, unless the context otherwise requires, a "political party" is an organization of voters qualified to participate in a primary election in either of the two following ways:

1. Any organization of electors which, under a common name or designation at the last preceding November election, polled for any of its candidates equivalent to 5 percent of the total vote cast for Representative in Congress.

2. Any organization of electors which, under a common name or designation, files a petition, signed by qualified electors equal in number to at least 5 percent of the entire vote cast at the last preceding November election for Representative in Congress, declaring that they represent a political party or principle, the name of which shall be stated, and that they desire to participate and nominate officers by primary. The petition may also contain the platform of the party and shall be filed on or before the 1st day of March of any presidential primary year. The names of the electors so petitioning need not all be on one petition, but may be in one or more petitions; but each petition shall be verified by at least one signer thereof

to the effect that the signers are qualified electors of the state according to his best information and belief.

Sec. 6. As used in this chapter, unless the context otherwise requires, "precinct" means a district established by law within which qualified electors vote at one polling place.

Sec. 7. As used in this chapter, unless the context otherwise requires, "presidential primary election" means the election for delegates to the nominating conventions of the national political parties held in each year in which a President of the United States is to be elected.

Sec. 8. As used in this chapter, unless the context otherwise requires, "presidential primary year" means any year in which a President of the United States is to be elected.

Sec. 9. As used in this chapter, the masculine gender includes the feminine.

Sec. 10. The provisions of chapters 300, 301 and 303 of NRS shall apply to presidential primary elections.

Sec. 11. 1. Any act or omission declared to be an offense by the laws of this state concerning elections shall also, in like case, be an offense concerning presidential primary elections as provided for by this chapter, and shall be punished in the same manner and form as therein provided.

2. All penalties and provisions of the law governing elections, except as otherwise provided in this chapter, shall apply in equal force to presidential primary elections as provided for by this chapter.

Sec. 12. A presidential primary election shall be held in each precinct on the 1st Tuesday in June of the year 1960 and every 4 years thereafter.

Sec. 13. 1. The expense of providing all sample and regular ballots to be used at presidential primary elections, and the expenses incurred by the secretary of state in carrying out his duties under this chapter, shall be paid out of the state treasury in the same manner as other ordinary expenses of the office of the secretary of state.

2. All expenses of presidential primary elections held in 1964 and every 4 years thereafter, other than the expenses enumerated in subsection 1 of this section, shall be paid out of the treasuries of the counties in the same manner as in the case of a November election.

Sec. 14. 1. All political parties, as defined in subsection 1 of section 5 of this chapter, shall participate in the presidential primary election under the provisions of this chapter.

2. Any political party, as defined in subsection 2 of section 5 of this chapter, may participate in the presidential primary election under the provisions of this chapter.

Sec. 15. On or before the 1st day of March of each presidential primary year, the chairman of the state central committee of each political party qualified to participate in the presidential primary election shall file in the office of the secretary of state a notice in writing stating the number of delegates allotted to represent the state at the next national convention of his party. The form of the notice shall be substantially as follows:

STATEMENT OF NUMBER OF DELEGATES TO

PARTY NATIONAL CONVENTION

To the Secretary of State,

Carson City, Nevada.

You are hereby notified that the number of delegates to represent the State of Nevada in the next national convention of the party is

Dated this day of, 19 ...

.....
Chairman of the state
central committee of the
..... party

Sec. 16. If a chairman of a state central committee fails to file a notice stating the number of delegates, the secretary of state shall ascertain the number from the call for the national convention issued by the national committee of the party.

Sec. 17. On or before the 10th day of March of each presidential primary year, the secretary of state shall transmit to each county clerk a notice in writing stating the number of delegates to be elected by each political party. The form of the notice shall be substantially as follows:

CERTIFICATE OF SECRETARY OF STATE AS TO
NUMBER OF DELEGATES TO EACH
PARTY NATIONAL CONVENTION

To the county clerk of county:

I hereby certify to you that the political parties qualified to participate in the presidential primary to be held in this state on the day of June 19 ..., and the number of delegates to be elected by each political party to represent the State of Nevada in its next national convention is as follows:

Parties	Number of Delegates
.....
.....

.....

Dated at Carson City, Nevada, this day of April, 19 ...

.....
Secretary of State

Sec. 18. On or before the 20th day of March of each presidential primary year each county clerk shall publish once, in a newspaper having a general circulation in the county, the notice transmitted by the secretary of state under section 17 of this chapter.

Sec. 19. All delegates shall be state-at-large delegates.

Sec. 20. Each candidate for delegate shall be an enrolled member of the political party whose convention he proposes to attend.

Sec. 21. Candidates for delegate shall be selected by one of the following procedures:

1. If the presidential candidate enters his name in the presidential primary election by declaration under the provisions of section 26 of this chapter, he shall select delegates, equal in number to the number of delegates allotted to his political party, and file a list of their names in the office of the secretary of state when he enters his name.

2. If a presidential candidate's name is entered in the presidential primary election by committee action under the provisions of section 26 of this chapter, either the presidential candidate or the committee shall select delegates, equal in number to the number of delegates allotted to the political party, and the committee chairman shall file a list of their names in the office of the secretary of state when he enters the presidential candidate's name.

3. If a presidential candidate's name is entered in the presidential primary election under the draft provisions of section 29 of this chapter, the state central committee of the presidential candidate's party shall, after the results of the presidential primary election are complete, select delegates, equal in number to the number secured by the candidate in the presidential primary election, and the chairman shall immediately file a list of their names in the office of the secretary of state.

4. (a) If a presidential candidate receives, under the write-in vote provisions of section 31 of this chapter, a sufficient number of votes to be awarded one or more delegates, such delegate or delegates may be selected by the candidate within 5 days after notice from the secretary of state under section 52 of this chapter.

(b) If such candidate does not select the delegate or delegates within such time, the state central committee shall select the delegate or delegates in the same manner as provided in subsection 3 of this section.

Sec. 22. 1. No more than three delegates on any list filed under section 21 of this chapter shall be from the same county.

2. On lists filed under subsections 1 and 2 of section 21 of this chapter, names of delegates from the same county shall be separated by the names of at

least two other delegates if the number of delegates is sufficient to so permit, and, if not, by the name of one other delegate if the number of delegates is sufficient to so permit.

Sec. 23. No delegate's name shall appear on more than one list filed with the secretary of state in any one presidential primary election year.

Sec. 24. No delegate's name shall be placed on a list filed with the secretary of state without the consent of such delegate.

Sec. 25. Each list of delegate's names filed with the secretary of state shall contain a designation of one delegate as organizing chairman.

Sec. 26. The name of a presidential candidate may be entered in the presidential primary election by one of the following procedures:

1. A candidate may file in the office of the secretary of state, one or before the 20th day of April of the presidential primary year, a declaration of candidacy stating that he is honestly seeking the nomination for President and wishes his name to be entered in the presidential primary election. Each such declaration shall be accompanied by the filing fee provided for in section 27 of this chapter, and by a list of candidates for delegate. If the candidate is a resident of the State of Nevada, his declaration shall be accompanied also by a petition, containing the signatures of qualified electors equal in number to 5 percent of the entire vote cast at the last preceding November election for Representative in Congress, and declaring that such qualified electors favor his nomination.

2. A committee of 10 or more qualified electors may file in the office of the secretary of state, on or before the 20th day of April of the presidential primary year, a declaration of candidacy on behalf of a candidate, with or without his consent, stating that they believe he is honestly seeking the nomination for President, and that they wish his name to be entered in the presidential primary election. Each such declaration shall be accompanied by the filing fee provided for in section 27 of this chapter and by a list of candidates for delegate. If the candidate is a resident of the State of Nevada, the declaration shall be accompanied also by a petition meeting the requirements of subsection 1 of this section.

Sec. 27. The filing fee for each presidential candidate shall be \$500. The fee may be deposited by the candidate or by the committee formed on his behalf under subsection 2 of section 26 of this chapter. No fee shall be required for delegates.

Sec. 28. 1. The filing fee of any candidate who receives 10 percent or more of the total vote cast by his political party in the presidential primary election shall be promptly refunded to the depositor by the secretary of state.

2. The filing fee of any candidate who receives 10 percent of the total vote cast by his political party in the presidential primary election shall be paid into the general fund of the State of Nevada.

Sec. 29. After the 20th day of April, and before the 26th day of April, of the presidential primary election year, the secretary of state shall:

1. Enter in the presidential primary election the name of any presidential

candidate which has been entered in two or more presidential primary elections in other states of the United States, if the political party of such candidate is qualified to participate in the presidential primary election under sections 5 and 14 of this chapter, and if such candidate's name has not been entered in the presidential primary election in the State of Nevada. But the secretary of state shall enter no name under the provisions of this section if that name would be the only name on the party ballot.

2. Refund the filing fee of any candidate whose name has been entered in the presidential primary election under the provisions of section 26 of this chapter but has not been entered in a presidential primary election in any other state of the United States, and the name of such candidate shall not appear on the ballot.

Sec. 30. A candidate whose name has been entered in the presidential primary election may withdraw from the election only if he files with the secretary of state a signed statement that he is not a candidate and is not entered in, and will not enter, any presidential primary election in any other state during the current presidential primary year.

Sec. 31. Electors may vote at the presidential primary election for any candidate of their party, whose name has not been entered in the election under the provisions of this chapter, by writing in the name of such candidate on the ballot in the space provided therefor under section 37 of this chapter.

Sec. 32. No presidential primary election shall be held to elect delegates to the national convention of any political party which, on the 26th day of April of the presidential primary year, has no more than one presidential candidate's name entered in the primary under the provisions of this chapter; and, if only one name has been entered by any party, the delegates whose names have been filed in his support in the office of the secretary of state shall be declared elected.

Sec. 33. On or before the 1st day of May of each presidential primary election year the secretary of state shall transmit to each county clerk a certified list containing the names and addresses of the candidates for President who are entitled to be voted for at the presidential primary election and the names and addresses of the delegates filed in support of such candidates.

Sec. 34. Immediately upon receipt of the certified list of candidates and delegates from the secretary of state, each county clerk shall cause to be published in a newspaper having a general circulation in the county, or, in the absence of such a newspaper, shall cause to be posted in three public places in each precinct within the county, a presidential primary notice which shall be substantially in the following form:

NOTICE BY COUNTY CLERK OF THE TIME AND PLACE OF PRESIDENTIAL PRIMARY ELECTION,
POLITICAL PARTIES ENTITLED TO PARTICIPATE THEREIN, AND NAMES AND
ADDRESSES OF CANDIDATES FOR PRESIDENT AND DELEGATES
SUPPORTING SUCH CANDIDATES

Notice is hereby given that a presidential primary election is to be held in the county of on Tuesday, the day of June, 19 ..., and that the political parties entitled to participate therein, the presidential candidates and

the delegates supporting such candidates are as follows:

..... Party		
Candidate	Candidate	Candidate
Name
Address.....
Delegates	Delegates	Delegates
1. Name
Address.....
2. Name
Address.....
Etc.	Etc.	Etc.

..... Party

Etc.

Notice is also hereby given that on presidential primary election day the polls will be open from the hour of 8 a.m. until the hour of 6 p.m., and that during those hours the election will be held at the legally designated polling places in each precinct in the county, which are as follows:

City of
(Name or number of precinct) (Location of polling place)

Precinct

Precinct

Town of

Precinct

.....township (outside of city)

Precinct

Dated this day of, 19 ...

.....
County Clerk

Sec. 35. 1. On or before the 10th day of May of each presidential primary year, the secretary of state shall cause to be printed by the superintendent of state printing, and shall distribute to each county clerk, sample ballots for the presidential primary election in such number as each county clerk shall certify as necessary to meet the requirements of subsection 4 of this section.

2. The secretary of state shall mail one copy of the sample ballot to each presidential candidate at the best available address of such candidate.

3. Sample ballots shall:

(a) Be the same size as the official ballot and be an exact copy thereof.

(b) Be marked conspicuously with the words "Sample Ballot".

4. Each county clerk, upon receipt of the sample ballots, shall forthwith:

(a) Mail to each registry agent, for distribution, one sample ballot for every four registered voters in his precinct.

(b) Post a copy of the sample ballot in a conspicuous place in his office.

Sec. 36. On or before the 15th day of May of each presidential primary year, the secretary of state shall cause to be printed by the superintendent of state printing on official paper, and shall distribute to each county clerk, official ballots in such number as the county clerk shall certify as necessary to meet the needs of his county.

Sec. 37. 1. All ballots shall contain:

(a) The names of the presidential candidates qualified under the provisions of this chapter to appear on the ballot, and no other names. A vote for a candidate shall constitute a vote for the list of delegates filed in support of such candidate in the office of the secretary of state; or, if the name of the candidate was entered in the presidential primary election under the provisions of section 29 of this chapter, shall constitute a vote for delegates to be selected after the presidential primary election under the provisions of subsection 3 of section 21 of this chapter.

(b) A blank space, following in order after the name of the last candidate, to be used by any elector to write in the name of any candidate such elector may prefer over those whose names appear on the ballot. A vote for a candidate whose name does not appear on the ballot shall constitute a vote for the delegates to be chosen after the presidential primary election under the provisions of subsection 4 of section 21 of this chapter.

(c) Appropriate instructions for voting for a candidate whose name appears on the ballot or for a write-in candidate.

2. Names of presidential candidates entered in the presidential primary election by declaration under the provisions of section 26 of this chapter shall appear on the ballot in chronological order based upon the dates on which their declarations were filed in the office of the secretary of state. Names of presidential candidates entered in the presidential primary election under the draft provisions of section 29 of this chapter shall appear in alphabetical order following the names of candidates which were entered by declaration.

3. In all other respects all ballots shall conform as closely as possible to the ballots used in other primary elections within the state.

Sec. 38. Each county clerk shall cause the official ballots to be furnished to the various precinct election officers in the manner and number provided by law for the distribution of ballots for the November election.

Sec. 39. Election officers shall not deliver any ballot to any elector other than

the ballot for the party to which the elector belongs as shown by the official register.

Sec. 40. 1. On or before the 1st day of March of each presidential primary year, the county central committee of each political party for each county shall nominate to the board of county commissioners of such county three qualified electors for each precinct in the county to act as officers of the presidential primary election in the precinct. The board of county commissioners, from the nominees for each precinct, shall select the officers of the presidential primary election for the precinct in the same manner and number as provided by law for the election of officers of general elections, giving to each party, as near as may be, equal representation.

2. The officers of the presidential primary election shall perform all the duties at the presidential primary election prescribed by law for the officers of election at general elections, and they shall receive therefor the same compensation from the county.

Sec. 41. The qualifications and regulation of voters at presidential primary elections shall be subject to the same tests and shall be governed by the same provisions of law as are prescribed for other elections.

Sec. 42. 1. The county clerk shall prepare and furnish official registers for use at presidential primary elections.

2. The official register, together with a checklist of each election precinct, shall be furnished to one of the inspectors of the presidential primary election as provided by law.

Sec. 43. 1. Any elector desiring to vote at any presidential primary election shall give his name and address to the ballot clerk, who shall immediately announce the same. No ballot shall be delivered to an elector except to one who has the right to vote as provided in this chapter.

2. No elector shall be entitled to vote a party ballot at primary elections unless he has theretofore designated to the registry agent his politics or the political party to which he belongs and has caused the same to be entered upon the register by the registry agent.

Sec. 44. 1. An elector's right to vote may be challenged by any elector upon any of the grounds allowed by law for a challenge of a right to vote at any general election, and upon the additional grounds that:

(a) The elector has not registered;

(b) His name does not appear upon the register as required by law.

(c) He does not belong to the political party designated upon the register; or

(d) The register does not show that he designated his politics or the political party to which he belongs.

2. All challenges shall be disposed of in the same manner as provided by law for general elections.

Sec. 45. 1. The voter shall be instructed, if necessary, by a member of the election board as to the proper method of marking and folding his ballot, and he shall then retire to an unoccupied booth and without delay stamp the ballot with a rubber stamp provided for that purpose.

2. If the voter shall spoil or deface a ballot he shall at once return to the ballot clerk, who shall cancel the ballot and deliver another ballot to the voter.

Sec. 46. The voter shall designate his choice on the ballot of candidates of his party by stamping a cross (X) in the small square opposite the name of the candidate for whom he desires to vote, and in no other place, or by writing in the name of a candidate he prefers to those whose names appear on the ballot. If he stamps more than one name, or if for any reason it is impossible to determine his choice, his ballot shall not be counted.

Sec. 47. No ballot shall be rejected for any technical error which does not render it impossible to determine the voter's choice for candidate, even though such ballot be somewhat soiled or defaced.

Sec. 48. When a voter has stamped his ballot he shall fold it so that its face shall be concealed, and he shall hand it to a member of the election board in charge of the ballot box. The folded ballot shall be placed in the ballot box in the presence of the voter, and the name of the voter shall be checked upon the register as having voted.

Sec. 49. 1. The polls shall open at 8 a.m. and close at 6 p.m., and no adjournment or intermission whatever shall take place until the polls are closed and until all the votes cast at the polls are counted and the result publicly announced.

2. The provisions of subsection 1 shall not be deemed to prevent a temporary recess while election officers are taking meals or for other necessary delay, but no more than two members of the board shall at any time be absent from the polling place.

Sec. 50. 1. As soon as the polls are finally closed the election board must immediately proceed to canvass the votes cast at the presidential primary election. The canvass must be public, in the presence of bystanders, and must be continued without adjournment until completed and the result thereof declared. Except as otherwise provided in this chapter, the canvass shall be conducted, completed and returned as provided by law.

2. The number of ballots agreeing or being made to agree with the number of names on the lists, as provided by law, the board must take the ballots from the ballot box and count all the votes cast for each candidate for the several offices and record the same in the duplicate tally book.

Sec. 51. 1. As soon as the returns from all the precincts in any county have been received, the board of county commissioners shall meet forthwith and proceed to canvass the returns. The canvass, when begun, shall continue until completed.

2. The clerk of the board of county commissioners must, as soon as the result is declared, enter upon the records of the board a statement of the result, which statement shall contain the whole number of votes cast for each candidate of each political party.

3. The board of county commissioners, after making the abstract of votes, shall cause the clerk of the board of county commissioners, by an order made and entered in the minutes of its proceedings, to make a copy of the abstract and forthwith

transmit it to the secretary of state at the seat of government.

Sec. 52. Immediately upon receipt of the abstracts of votes from the boards of county commissioners, the secretary of state shall:

1. Compile and file in his office a statement of the canvassed returns, which shall show the names of the presidential candidates of each party and the total of votes received by each candidate;

2. Determine, on the basis of the votes cast, and by the method of equal proportions as employed by the United States House of Representatives as of the effective date of this chapter, the number of delegates elected from each list of delegates. In determining the number of delegates the secretary of state shall modify the method of equal proportions to the extent that no candidate shall receive a minimum of one delegate for the sole reason of having a delegate list;

3. Determine the names of the elected delegates by designating the first name on each list from which one or more delegates were elected and continuing in order until the proper number of names has been designated;

4. Issue to each elected delegate a certificate of election, such delegate thereby being elected as delegate to his national party convention; and

5. Notify:

- (a) The state central committee of the appropriate party of the number of delegates, if any, to be selected under subsection 3 of section 21 of this chapter; and

- (b) The appropriate candidate and the state central committee of the appropriate party of the number of delegates, if any, to be selected under subsection 4 of section 21 of this chapter.

Sec. 53. Any error or omission occurring or about to occur in the placing of any name on the official presidential primary election ballot, or any error, omission or wrongful act occurring or about to occur by reason of any act of any inspector or clerk of a primary, or any other officer having to do with the election, registration or canvassing, may be corrected by application of any qualified elector, upon affidavit, to any district court, or to the supreme court or any justice thereof. Notice of the hearing of the proceedings shall be given to the officer or person interested, and the hearing shall take precedence over any other business.

Sec. 54. Any member of a list of candidates for delegate at a presidential primary election who wishes to contest the election of a member of another list of candidates may proceed within 5 days after the completion of the canvass as provided in NRS 294.265. The contestee shall be required by the order of a justice of the supreme court or a judge of the district court to appear and abide the further order of the court.

Sec. 55. A vacancy occurring in a list of delegates shall be filled:

1. By appointment of the organizing chairman, if the vacancy occurs before a permanent chairman is chosen;

2. By appointment by the permanent chairman if the vacancy occurs after the presidential primary election but before an alternate delegate has been selected.

Sec. 56. The delegates to each national party convention elected at the presidential primary election shall, before leaving the state to attend the convention, meet together and select a permanent chairman of the group.

Sec. 57. 1. One alternate delegate for each elected delegate shall be selected as follows:

(a) An alternate for each delegate representing a presidential candidate who polled less than a plurality of the total vote of his party shall be selected by the delegate.

(b) An alternate for each delegate representing a presidential candidate who polled a plurality of the total vote of his party shall be selected by the delegates meeting as a body under the provisions of section 56 of this chapter.

2. Except in the event of death or disability of a delegate, no alternate shall vote in place of a delegate without authorization signed by the regular delegate.

Sec. 58. Each delegate shall, at the national party convention, support the candidate in connection with whom his name was filed in the office of the secretary of state, and shall support also that candidate's platform and the platform or policies adopted at the state party convention, but shall give preference to the candidate's platform in case of conflict.

Sec. 59. Each delegate shall be released from his duty to support the candidate he represents by:

1. Formal release by the candidate; or

2. Failure of the candidate to receive 10 percent or more of the total vote on the third convention ballot, but each delegate shall again support the candidate if he polls 10 percent or more of the total vote on any subsequent ballot, and shall continue to support him until he again fails to receive 10 percent of the total vote; or

3. Nomination on the first or second ballot of a candidate other than the one supported by the delegate.

Sec. 60. NRS.294.380 is hereby amended to read as follows:

294.380 1. In presidential election years, on the call of a national party convention, but one (set of party conventions) county convention and but one state convention for each party shall be held on such respective dates and at such places as the state central committee of the party shall designate. If no earlier dates are fixed, the state convention shall be held 30 days prior to the date set for the national convention and the county conventions shall be held 60 days prior to the date set for the national convention.

2. Delegates to such conventions shall be selected in the same manner as prescribed in NRS 294.315 to 294.375, inclusive, except as to time, and each convention shall have and exercise all of the power granted it under NRS 294.315 to 294.375, inclusive. In addition to such powers granted it, the state convention shall (select the necessary delegates and alternates to the national convention of the party, and,) if consistent with the rules and regulations of the party, (shall) select the national committeeman and committeewoman of the party from the state of Nevada.

Sec. 61. Chapter 225 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. The secretary of state shall have the power to appoint a deputy for elections, which officer shall be in the unclassified service of the state and shall receive an annual salary not to exceed \$6,000.

2. The deputy for elections shall be in charge, under the supervision of the secretary of state, of all matters relating to elections.

Sec. 62. NRS 363.020 is hereby amended to read as follows:

363.020 1. Each male resident of this state, over 21 and under 60 years of age (uncivilized American Indians excepted) and not exempt by law, shall pay an annual poll tax of (\$3) \$4 for the use of the county and incorporated cities therein.

2. Any person who has paid a poll tax in any other state or territory and has a receipt therefor in his possession shall not be required to pay a poll tax in this state for the year represented by such poll tax receipt issued in another state or territory.

Sec. 63. NRS 363.170 is hereby amended to read as follows:

363.170 1. All money received from poll tax collections paid by persons residing outside the limits of any incorporated town or city within this state shall be expended as follows:

(a) Three-fourths of such money shall be turned into the general road fund of the county in which the poll tax (shall be) is collected. The boards of county commissioners of the various counties may appropriate the money of the general road fund for the building and maintenance of such public roads of their respective counties as they may deem for the best interest of the public.

(b) One-fourth of such money shall be turned into the general fund of the county in which the poll tax is collected.

2. All money received from poll tax collections paid by persons residing within the limits of any incorporated town or city within this state shall be expended as follows:

(a) Three-fourths of such money shall be turned over monthly, as collected, to the proper official or officials of such incorporated town or city, and shall, by such incorporated town or city, be expended in the building, improvement and care of the public streets, alleys and roads situated therein.

(b) One-fourth of such money shall be turned into the general fund of the county in which the poll tax is collected.

Sec. 64. 1. There is hereby appropriated from the general fund in the state treasury, out of any moneys not otherwise appropriated, the sum of \$90,000 to the 1960 presidential primary election fund, which is hereby created.

2. All expenses of the 1960 presidential primary election shall be paid out of the treasuries of the counties in the same manner as those of a November election.

3. After the 1960 presidential primary election, the board of county commissioners of each county shall certify to the state controller the amount of expenses incurred in the presidential primary election in their county. Each certification shall be accompanied by evidence satisfactory to the state controller.

4. The state treasurer shall pay to each county, out of the presidential primary election fund, on a warrant drawn by the state controller, an amount equal to the amount expended by such county in the 1960 presidential primary election.

5. Any excess remaining in the 1960 presidential primary election fund after all counties have been reimbursed, as provided in subsection 4 of this section, shall revert to the general fund.

Sec. 65. This act, except for sections 62 and 63, shall become effective on July 1, 1959. Sections 62 and 63 shall become effective when, and if, section 7 of article 11 of the constitution of the State of Nevada is amended to provide for the exclusive use by the county governments of any poll tax in excess of \$3 per person.

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