

# STATE ELECTION LAWS



*Bulletin No. 77-18*

LEGISLATIVE COMMISSION  
OF THE  
LEGISLATIVE COUNSEL BUREAU  
STATE OF NEVADA

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Assembly Concurrent Resolution No. 24—Assemblyman Jacobsen

FILE NUMBER 105

**ASSEMBLY CONCURRENT RESOLUTION**—Directing the legislative commission to study the state election laws and to make a report of the results of the study with recommendations for proposed legislation to the next regular session of the legislature.

WHEREAS, Nothing is more fundamental to the strength of democratic government than the integrity of the election process; and

WHEREAS, The integrity of the election system is dependent upon the clarity, scope and precision of election laws; and

WHEREAS, Technological changes and actual usage both point to aspects of existing election law which are in need of reform; and

WHEREAS, The 1972 study of election laws addressed neither the question of recounts in close elections nor the use of electronic data processing in elections; and

WHEREAS, Election law is a complex entity of numerous interlocking and interdependent segments which should be changed only after understanding the overall impact of any change; now, therefore, be it

*Resolved by the Assembly of the State of Nevada, the Senate concurring*, That the legislative commission is hereby directed to make a study of state election law, giving particular attention to the provisions for recounts in certain elections and to the use of electronic data processing in both voting and in counting votes, enlisting in such study the aid of two county election officials and two members of the public familiar with the election laws, from any four counties in the state, and to report the results of that study and recommend any appropriate legislation to the 59th regular session of the legislature of the State of Nevada.



## REPORT OF THE LEGISLATIVE COMMISSION

To the Members of the 59th Session of the Nevada Legislature:

This report is submitted in compliance with Assembly Concurrent Resolution No. 24 of the 58th session, which directed the legislative commission to study the election laws of the state.

The legislative commission in turn directed the staff of the legislative counsel bureau to conduct a detailed review of these laws. The review has been performed with emphasis upon technical and constitutional aspects.

The secretary of state, registrars of voters and county clerks have provided valuable information and assistance.

This report is transmitted to the members of the 59th legislature for their consideration and such action as may be appropriate.

Respectively submitted,

Legislative Commission  
Legislative Counsel Bureau  
State of Nevada

Carson City, Nevada





### SUMMARY OF RECOMMENDATIONS

The staff report on state election laws recommends that:

1. The monetary limitations on candidates' campaign expenditures be removed and the requirements relating to media advertising be consolidated and relaxed for constitutional and other reasons.
2. The obsolete provisions and references concerning voting machines be eliminated to simplify and modernize the election laws.
3. A system of random arrangement for candidates' names on ballots be established to give every candidate a chance to secure an advantageous ballot position and thus avoid persistent discrimination.
4. An exception be made to the cutoff date for change of party affiliation by a prospective candidate where the change is to a subsequently qualified party; the state bear the cost of newspaper publication of statewide ballot questions; the deadline for mailing sample ballots be extended; the activities of deputy registrars be made subject to additional controls; provisions be added to insure voting secrecy; certain general repealing clauses be discarded and the applicability of specific provisions be clarified; and improvements be made to various other provisions.



REPORT TO THE LEGISLATIVE COMMISSION  
OF THE STAFF STUDY ON  
STATE ELECTION LAWS

I. CAMPAIGN FINANCING PROVISIONS

1. Expenditure Ceilings.

Two chapters of NRS contain provisions imposing limitations on the total amount of money which candidates may spend in their campaigns. NRS 218.032 sets limitations applicable to candidates for the state legislature. NRS 294A.030 sets limitations applicable to most other candidates for the various state and local offices. The constitutionality of these limitations has been brought into serious question by the U.S. Supreme Court's opinion in Buckley v. Valeo, 96 S.Ct. 612 (1976).

The Buckley decision struck down the federal statutes which had limited spending in elections for federal offices, as infringements on the freedom of speech guaranteed by the First Amendment. Although the Buckley decision did not directly apply to any state laws, an obvious analogy exists between the federal and state limitations, and the applicability of Buckley principles to comparable state laws seems clear.

Even before the Buckley decision was handed down, the supreme courts of Oregon and Washington had held that the campaign spending limitations in their respective state statutes were unconstitutional, because those limitations violated the right to free expression. Bare v. Gorton, 526 P.2d 379 (Wash., 1974) and Deras v. Myers, 535 P.2d 541 (Ore., 1975).

Recently, based on the Buckley rationale, the Michigan Supreme Court has declared that the campaign spending limitations enacted in Michigan Public Act 227 of 1975 are unconstitutional. In re Enrolled House Bill 5250, Mich. Supreme Ct., May 21, 1976. The Michigan Supreme Court is authorized by section 8 of Article III of the Michigan constitution to give opinions on the constitutionality of legislation after its enactment but before the effective date.

The Nevada Supreme Court has not ruled on the validity of the expenditure limitations of NRS. Probably these limitations could not survive the test of constitutionality if a challenge were to be mounted eventually against them. As of this time, however, no such court action has been initiated.

In view of the unsound constitutional basis for limitations on campaign spending, it is recommended that NRS 218.032 and 294A.030 be repealed. Also, NRS 218.036 should be repealed, because its sole function is to carry out the purpose of NRS 218.032.

## 2. Statutory Duties of Advertising Media.

Under NRS 218.038 and 294A.050 advertising media are required to secure the candidate's written authorization before publishing any political advertisement for him, and any such publishing without the authorization constitutes a misdemeanor. The sections also require the media to keep cost records of advertising published for each candidate.

These two sections serve the purpose of giving the candidate a degree of control over the advertising activities of all those who would support him. Such control was designed to aid the candidate in (1) staying below his overall spending limit and (2) complying with his disclosure requirements. Incidentally, these sections also provide a means for others to ascertain the amounts actually received or spent for the candidate's advertising. If the campaign expenditure ceilings are repealed as recommended, NRS 218.038 and 294A.050 would no longer be needed to help the candidate stay below a ceiling; however, the sections would continue to serve the other mentioned purposes.

A state district court decision in Clark County has enjoined the secretary of state and attorney general from enforcing NRS 218.038 against a plaintiff advertiser. The court held that the statute has a chilling effect on political advertising and imposes an unconstitutional prior restraint upon its publication. Sunderland dba Humboldt Sun v. Swackhamer, No. A 127022, Eighth Judicial District (1974) Apropos of the "prior restraint" ground, it is observed that the prohibition against the advertising medium's acceptance of advertising without the candidate's written permission is a form of prior restraint, but the advertising medium's duty of recordkeeping is not necessarily a prior one, since it can be performed after publication.

While the court's decision did not amplify upon the two stated grounds, it is understood that certain additional matters were influential in the decision: the impropriety of causing the media to police the financial control provisions and the omission of certain kinds of advertising media, in supposed violation of the principle of Equal Protection.

As the Sunderland case was not appealed, there is no Nevada Supreme Court determination of the merits of Sunderland's challenge. The Sunderland injunction remains effective upon the parties to the case and, unofficially, to the extent that the public prosecutors refrain from prosecution on the premise that the decision would be repeated.

The two reasons noted above for holding invalid the record-keeping requirement of NRS 218.038 are probably removed in NRS 294A.050 by omitting the requirement that the advertising medium file any report. The permission requirement, like the requirement of NRS 294A.040 that most political expenditures be made through the candidate and not by a supporter directly, arises from the legislature's determination to prevent evasion of the limit on a candidate's expenses. Since the limitation on the candidate's expenses is invalid, and the Supreme Court in Buckley also held that a limitation on the separate expenses of supporters is also invalid, there appears to be no reason to retain the permission requirements for advertising media or the requirement that expenditures be channeled through the candidate or his committee. Since there is to be no limit on expenses, there is also no need to provide separately for different offices, and NRS 218.038, relating only to legislators, can be repealed in favor of the general provisions of NRS 294A.050. All campaign practice provisions would then be appropriately located in chapter 294A of NRS.

Exhibit A, attached hereto, is recommended legislation to carry out these suggestions. If the legislature wishes to go further and require the filing of reports of expenses by persons or groups which independently support one or more candidates--which in a suitably limited statute would be valid under Buckley--it must fix the minimum to be reported, a matter on which the Supreme Court accepted the judgment of Congress. Such a statute thus involves two important questions of legislative policy, and is beyond the scope of a staff study to recommend.

## II. VOTING MACHINE PROVISIONS

By "voting machine" is meant the large mechanical apparatus which once stood upright in certain polling places and contained voting levers in front and registering counters in back. "Ballot labels" were affixed to guide voters in operating the metallic levers. Various protective assemblies and locks prevented tampering with the automatic tallies. Other voting systems employ ballots which are cast and counted, but the voting machine was uniquely ballotless.

The voting machine had a short-lived existence in Nevada. It was never used in any of the counties of Nevada except Clark and Washoe. In these two counties the voting machine has long since been replaced by the punchcard voting system. The latter system is designed to permit the tallying of punched ballot cards with great speed by a general purpose electronic computer or sometimes a special counting device.

Clark County still has about a dozen of the old voting machines in storage. They are not used for public elections but only occasionally as a convenience for private organizations at conventions. All voting machine units in Washoe County have been disposed of. Neither of the registrars of voters in these two counties expects his county ever to return to the voting machine.

After the advent of the voting machine, Carson City, Churchill County and Douglas County changed from the conventional paper ballot--but not to the voting machine. Instead they adopted the punchcard voting system, which they now find to operate satisfactorily. Since these three counties and the populous counties of Clark and Washoe have approximately 87 percent of Nevada's electorate, the punchcard system greatly predominates as the voting system in the state.

The 12 rural counties, with the remaining 13 percent of the electorate, continue to use the paper ballot. They find the traditional system to be more economical than other systems and reasonably adequate for their needs. It is predictable that if any of the 12 counties should wish to adopt a new voting system in the future, they would not revert to the costly and obsolescent voting machine but would choose the punchcard system or some newly developing system.

Numerous statutory provisions on voting machines are embodied in the election title of NRS, remaining as the legacy of the voting machine era. These provisions comprise the whole of chapter 293A of NRS and many scattered references outside that chapter. These provisions have not proved to be convertible for use with the newer punchcard system. A separate body of law (chapter 293B of NRS) has since been enacted to accommodate the newer system.

The now disused voting machine provisions clog the election title and hinder the finding of other provisions having present interest. To streamline the election title, it is therefore recommended that the title be trimmed of its voting machine provisions and references. This recommendation entails the repeal of 110 sections in chapter 293A of NRS and the amendment (through deletions or adjustments) of 27 other sections. A proposed bill to carry out the recommendation is attached as Exhibit B.

### III. BALLOT LISTING PROVISIONS

The election title of NRS requires that candidates' names be invariably listed in alphabetical order on the ballot. The requirement is set forth in NRS 293.263, 293.265, 293.267, 293.268 and 298.115.

A question has often been raised as to whether this method of ordering the names tends consistently to benefit candidates whose surnames begin with an early letter of the alphabet and to handicap candidates whose surnames begin with a later letter of the alphabet. The question has been litigated before the supreme courts of Arizona and California. Both courts have held that the conventional alphabetical method does discriminate unconstitutionally. Kautenburger v. Jackson, 333 P.2d 293 (Ariz., 1958) and Gould v. Grubb, 536 P.2d 1337 (Cal., 1975)

Evidence of such positional advantage or, conversely, disadvantage has been revealed in elections where candidates' names were, by law, rotated on the ballot and every candidate's vote-getting performance could therefore be related accurately to his several ballot positions. Considerable evidence indicates that voters in doubt often uncritically select whoever is at the top of the ballot list. The result is a windfall vote for the top-listed candidate. Studies have shown that the intensity of this effect depends

upon several factors--the nature of the office, the amount of publicity, the educational level of voters and the complexity of the voting procedure. One study attributes to a first ballot position at least a 5 percent increase in total vote, and the study attributes a higher percentage in most elections. It hence appears that close elections are frequently determined by the listing order. (See Scott, California Ballot Position Studies: An Unconstitutional Advantage to Incumbents, 45 So. Cal. L. Rev. 365, 1972.) A few researchers, especially the British, have found positional advantage to lie otherwise than in the first position. (See the Massachusetts Legislative Research Council's Report No. 5312 of January 9, 1974, Relative to Order of Names on the Ballot.)

As an alternative to the conventional method of alphabetical listing, a legislature could adopt (and some legislatures have adopted) a rotational method, whereby each candidate's name is printed in different positions on an equal percentage of the ballots. The rotational method is eminently fair to the candidates, but it has certain practical shortcomings. Sample ballots would probably not show voters the order of names which they will later find on their official ballots. The method can be expected to create additional printing costs as well as administrative problems. Not only must the names be printed in rotation for every office but the ballots must be distributed by a system that insures equal rotation among those who actually vote.

Another alternative is to arrange the candidates' names according to lot. The lottery method could be carried out in a relatively simple and inexpensive manner: there could be a master drawing which at once would determine the order of names for all offices during a particular election or designated period. The lottery method concededly does not remove positional bias nor preclude the occasional deciding of elections by the windfall vote. Nevertheless, the lottery method gives every candidate a chance to secure the most advantageous position (or to avoid the least advantageous). The lottery method would eliminate the persistent discrimination against certain candidates, which inheres in the conventional method.

In the Gould case (cited above) the California Supreme Court stated: "At this juncture, we are not prepared to hold that a rotational method is the only constitutionally permissible



ballot procedure. Although a lottery system for determining ballot position may strike some as \* \* \* 'capricious,' such a system, unlike an \* \* \* 'alphabetical order' scheme, does not continually work a disadvantage upon a fixed class of candidates; all candidates are at least afforded an equal opportunity to obtain the preferential ballot position. There may well be other nondiscriminatory means for determining ballot placement. It is for the appropriate legislative body, and not this court, to choose between such constitutionally acceptable alternatives." (122 Cal. Rptr. at 387.)

California Elections Code § 10217 now provides for a system of drawings to establish "randomized alphabets." The section also provides for the automatic rotation of the position of candidates' names among the California assembly or supervisorial districts.

It is proposed that a random method of arranging candidates' names be adopted for Nevada. To change from the conventional to the random method, a new section must be added to NRS. The five existing sections which require the conventional manner of listing must be appropriately amended. The new section would require the secretary of state to make a single, public drawing of the letters of the alphabet on the day after the close of filing for candidates in each even-numbered year. The resulting random order of letters would be used for determining the order of candidates' names for state and local offices, including city offices, in all elections to be conducted during the ensuing biennium.

The employment of the random arrangement would be similar to that of the conventional alphabet. The random arrangement would be applied first to the initial letter and then if necessary to the second and succeeding letters of the name. After each drawing the secretary of state would furnish a copy of the current random arrangement to the county clerks or registrars of voters in time for the preparation of ballots.

Proposed legislation to accomplish a change to the method of random arrangement is attached as Exhibit C.

#### IV. OTHER ELECTION PROVISIONS

##### 1. Change of Party Affiliation by Prospective Candidate.

NRS 293.176 forbids a person from becoming a candidate for a party nomination if he has changed his party affiliation after September 1 before the last filing day for primary candidates.

In June 1974 a new political party was qualified for the ballot in Nevada. A person seeking to be a candidate of this party was denied the right to file because he had not changed his affiliation from his former party by the preceding September 1. He took his case to the Nevada Supreme Court, which issued a writ of mandate ordering the acceptance of his declaration of candidacy despite NRS 293.176. Long v. Swackhamer, 91 Nev. 498 (1975).

It is recommended that NRS 293.176 be amended to include an exception stating that the prohibition does not apply where the political party first becomes qualified after the cut-off date for the prospective candidate to change his affiliation.

##### 2. Recount Procedure and Costs.

NRS 293.404 describes the duties of a recount board. Included is a reference to "hearing any challenges." A recount board must proceed expeditiously with the recount, for the board's time limit is 3 days. Such a board is not a suitable body to hear and decide challenges, particularly if they amount to adversary contests. The board would be unduly interrupted in attempting to do so. A recount board is not involved with challenges to the qualifications of voters because at the counting stage, ballots are anonymous. A recount board is formed to determine whether ballots are marked or punched in a lawful manner and to ensure that the count is accurate. Observers at the recount could file a contest later if they find that the recount board has made enough aggregate error to justify a contest. It is recommended that the reference to the duty to hear challenges be deleted.

NRS 293.391 states that ballots deposited with the county clerk shall not be inspected by anyone except in cases of contested election. An added exception should be entered

into the section so that it does not literally preclude the recount board from performing its function.

NRS 293.405 should be amended to make clear that if the sum deposited by a candidate who demanded a recount is in excess of the cost of the recount, the excess shall be returned to him, whether or not he has prevailed.

Suggestions have been made that recounts ought to be conducted automatically whenever the voting for candidates is so close as to fall within a prescribed percentage. Such a procedure would create additional costs for the state or counties in every close election even though no demand for a recount were made by any candidate. The additional cost of the procedure appears unjustified in view of the remarkable accuracy shown in computer counting, the method used for most of the Nevada electorate. It is recommended that the current statutory policy of having recounts only upon demand be retained.

### 3. Secrecy of Ballot.

To safeguard the purity of elections, state constitutions customarily provide that the secrecy of voting shall be preserved. Stringent laws have been enacted in many of the states to secure and preserve the secrecy of the ballot. 26 AmJur2d 66; Elections § 236.

The Nevada constitution does not expressly guarantee the right of secrecy in voting, although section 5 of article 2 provides for elections by "ballot" and courts of some states (not including Nevada) have held that the word "ballot" implies secret ballot.

The Nevada statutes contain two provisions which expressly provide for secrecy in voting, but one pertains only to the punchcard system (NRS 293B.065) and the other only to voting machines (NRS 293A.100). A comprehensive provision on secrecy is lacking. Certain provisions establishing steps in the voting process do, however, reveal the legislative intent to provide for such secrecy.

Because the secret ballot is a basic principle of representative government, the principle should be expressed in a statutory provision applicable to all systems of voting. It is recommended that the two provisions of limited applicability

be replaced with a new comprehensive provision which will state that secrecy in the act of voting shall be preserved in every system of voting used in this state.

One of the safeguards in the paper ballot system cannot be used in the punchcard system. NRS 293.293 states that the voter "shall fold his ballot in such manner that the watermark and the number of the ballot appear on the outside, without exposing how he voted." The ballot card used in the punchcard system is not foldable. No comparable safeguard is now prescribed by statute to ensure voting secrecy under the punchcard system. The secretary of state has filled this deficiency by adopting a regulation requiring the use of protective envelopes with punchcard ballots. The protective envelopes are reusable and hence economical.

The requirement for protective envelopes in the punchcard system is believed to be of sufficient importance to be made statutory. It is recommended that there be added to chapter 293B of NRS a new section prescribing this procedure: When a voter is issued a ballot card, he shall also be issued a protective envelope. When the election official receives the envelope with the voted ballot inside, he shall remove the numbered stub without exposing the contents of the envelope, and shall then deposit the envelope with its ballot card in the ballot box in the presence of the voter.

#### 4. Duties of Deputy Registrars.

NRS 293.505 provides that the county clerk may appoint registered voters to serve as deputy registrars and that they shall serve at his pleasure and perform their duties as he directs. The performance of deputy registrars has sometimes been criticized for partisanship in two matters especially. Deputies may congregate in certain areas leaving other areas of demand inadequately serviced. Deputies may be selective in their acceptance of applicants.

Although it has been suggested that NRS 293.505 ought to be expanded to authorize the county clerk (or registrar of voters) to establish, by regulation, standards of training and performance for his deputy registrars, such detail should be avoided in the statutes, if possible. The power broadly conferred upon the county clerk to appoint deputy registrars to serve at his pleasure and perform their duties as he directs appears to provide ample control over the deputies.

All the same, it is recommended that NRS 293.505 be amended by adding two provisions addressed specifically to the criticisms. One provision would authorize the county clerk to delineate the area within which a deputy registrar may perform his duties. The other provision would require deputy registrars to register any qualified applicant without regard to partisan affiliation.

5. Correction of Errors.

A few of the election sections contain errors. These sections are NRS 293.163, 293.269, 293B.200 and 293B.370. NRS 293.163 should be repealed and its essential provision transferred to NRS 293.150. The other sections should be corrected by minor amendments.

6. Cost of Publishing Ballot Questions.

NRS 293.253 requires the secretary of state to furnish copies of proposed constitutional amendments and ballot questions to each county clerk and requires the clerk to publish the texts in a newspaper. Since the publishing is required by the state and involves matters of statewide interest, it is recommended that a new subsection be added to provide that the cost of the publications shall be borne by the state.

7. Deadline for Sample Ballots.

NRS 293.565 requires county clerks to mail the sample ballots at least 15 days before the election. The requirement is probably too stringent to be met under every set of circumstances. It is recommended that the county clerk's deadline be set at 7 days before the election. Of course, he may mail them sooner.

8. Rewording of Certain Provisions.

NRS 293.277 and 293.285 establish the procedure for identifying registered voters at the polling place and issuing ballots to them. The proposed revision seeks to put the steps in chronological sequence without omission or repetition, while retaining the substance of the existing statutes.

NRS 293.367 is a complex section describing the factors to be considered by an election board in determining whether to reject a ballot for possible irregularity. The proposed revision attempts to organize the factors in clearer fashion.

## 9. Applicability of Certain Provisions.

It may not be immediately clear whether certain provisions in chapter 293 of NRS apply to elections generally or only to elections conducted with traditional paper ballots. Certainly, some of the older provisions were enacted with only paper ballots in contemplation.

For example, NRS 293.233 provides that in precincts or districts having 200 or more registered voters, the county clerk shall appoint two election boards (instead of the customary single board), designating one the "voting board" and the other the "counting board." The latter begins its duties after the polls close. This provision for dual boards can have no application to the punchcard voting system, inasmuch as chapter 293B on that system speaks only of "election boards," provides for ballot counting at a central place, and provides that election boards are relieved of responsibility after due delivery of the uncounted ballots. (NRS 293B.330 to 293B.345, inclusive.)

Chapter 293B deals with the problem of applicability by stating in NRS 293B.055 that provisions of all state laws relating to elections "not inconsistent with the provisions of this chapter" apply to elections in districts or precincts where punchcard vote recording devices are used and to all elections where punchcard ballots are counted at a central counting place. NRS 293B.060 treats the problem negatively by stating that any provision of law "which conflicts with the provisions of this chapter shall not apply" to districts or precincts using punchcard vote recording devices nor to conduct at a central counting place, and by further stating that "acts, parts of acts \* \* \* in conflict with the provisions of this chapter are of no force or effect" in such districts, precincts or places.

This technique for solving the problem merely passes along to the reader the task of determining which provisions of chapter 293 are "not inconsistent" or in "conflict."

A better solution will be achieved by revising particular sections where that is needed to make their applicability express or obvious. A review of Title 24 of NRS shows that revisions for this purpose should be made to 12 sections: NRS 293.025, 293.230, 293.233, 293.293, 293.297, 293.307, 293.330, 293.363, 293.370, 293.373, 298.125 and 304.020.

Upon such revisions, NRS 293B.055 and 293B.060 should be repealed.

Recommended legislation to accomplish the changes discussed in Part IV of this report is attached as Exhibit D.





PROPOSED LEGISLATION



SUMMARY--Removes limitations on political candidates' campaign expenditures. (BDR 24-103)  
Fiscal Note: Local Government Impact: No.  
State or Industrial Insurance Impact: No.

AN ACT relating to elections; removing the monetary limitations on candidates' campaign expenditures; consolidating provisions and relaxing requirements on media advertising; 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. NRS 294A.050 is hereby amended to read as follows:

294A.050 1. A newspaper, radio broadcasting station, outdoor advertising company, television broadcasting station, direct mail advertising company, printer or other person or group of persons [shall not accept, broadcast, disseminate, print or publish any advertisement during a political campaign for a candidate whose permissible campaign expenses are limited by this chapter unless the advertisement is authorized in writing by the candidate or by a member of his personal campaign committee designated in writing by the candidate. Any person who violates this subsection is guilty of a misdemeanor for each advertisement so broadcast, disseminated, printed or published.

2. Every person who] which accepts, broadcasts, disseminates, prints or publishes advertising on behalf of any candidate or

group of candidates shall make available for inspection, at any reasonable time beginning at least 10 days before each primary or general election and ending at least 30 days after the election, information setting forth the cost of all advertisements accepted and broadcast, disseminated or published for each [of the candidates who has, either personally or through his duly authorized representative, authorized the advertising.] candidate or group of candidates.

[3.] 2. For purposes of this section [:

(a) The] the necessary cost information is made available if a copy of each bill, receipt or other evidence of payment made out for any such advertising is kept in a record or file, separate from the other business records of the enterprise and arranged alphabetically by name of the candidate, at the principal place of business of the enterprise.

[(b) The designation in writing by a candidate or a member of his personal campaign committee authorized to place advertising on his behalf continues until the newspaper, radio broadcasting station, outdoor advertising company, television broadcasting station, direct mail advertising company, printer or other person or group of persons receives written notice of revocation of the authority.]

Sec. 2. NRS 294A.080 is hereby amended to read as follows:

294A.080 If it appears to the secretary of state that the provisions of NRS [218.032 or NRS 294A.010 to 294A.030, inclusive,]

294A.010 or 294A.020 have been violated, he shall report the alleged violation:

1. To the attorney general in the case of a candidate for an office which serves territory in more than one county; and

2. To the appropriate district attorney in the case of a candidate for an office which serves territory in only one county,

*such* and the attorney general or district attorney to whom such report is made shall cause appropriate proceedings to be instituted and prosecuted in a court of proper jurisdiction without delay.

Sec. 3. NRS 218.032, 218.036, 218.038, 294A.030 and 294A.040 are hereby repealed.



SUMMARY--Removes voting machine provisions from NRS. (BDR 24-104)  
Fiscal Note: Local Government Impact: No.  
State or Industrial Insurance Impact: No.

AN ACT relating to elections; removing provisions on voting machines;  
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. NRS 244.194 is hereby amended to read as follows:

244.194 Boards of county commissioners may rent, lease or otherwise acquire voting [machines] or counting devices in whatever manner will best serve local interests.

Sec. 2. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as provided in NRS 293.165, no name may be printed on a ballot [or a ballot label] to be used at a primary election unless the person named has filed a declaration of candidacy, or an acceptance of a candidacy, and paid the fee required by NRS 293.193 not later than 5 p.m. of the 3rd Wednesday in July.

2. A declaration of candidacy or an acceptance of a candidacy required to be filed by this section shall be in substantially the following form:

Declaration of Candidacy of ..... for the  
Office of .....

State of Nevada                    )  
                                      ) ss.  
County of .....)

For the purpose of having my name placed on the official primary ballot as a candidate for the ..... Party nomination for the office of ....., I, the undersigned ....., do swear (or affirm) that I reside at No. ...., ..... Street, in the City (or Town) of ....., County of ..... , State of Nevada; that I am a registered voter of the election precinct in which I reside; that my actual, as distinguished from constructive, residence therein began on a date 30 days or more prior to the date of close of filing of declarations of candidacy for this office; that I am registered as a member of the ..... Party; that I have not changed the designation of my political party affiliation on an official affidavit of registration in any state since September 1 prior to the closing filing date for this election; that I believe in and intend to support the principles and policies of such political party in the coming election; that if nominated as a nonpartisan candidate or as a candidate of the ..... Party at the ensuing election I will accept such nomination and not withdraw; that I will not knowingly violate any



election law or any law defining and prohibiting corrupt and fraudulent practice in campaigns and elections in this state; and that I will qualify for the office if elected thereto; and my name shall appear on all ballots as here designated.

.....  
(Designation of name)

.....  
(Signature of candidate for office)

Subscribed and sworn to before  
me this ..... day of ....., 19...

.....

Notary Public (or other  
officer authorized to  
administer an oath)

3. A person may be a candidate under the name by which he is a voter, or under any other name which he has borne and by which he is known in the community where he resides.

4. The party designation in nonpartisan elections shall not be shown on the declaration of candidacy.

Sec. 3. NRS 293.195 is hereby amended to read as follows:

293.195 1. Judicial offices, school offices and members of boards of hospital trustees of public hospitals are hereby designated nonpartisan offices.

2. No words designating the party affiliation of a candidate for nonpartisan offices [shall] may be printed upon the ballot . [or ballot label.]

Sec. 4. NRS 293.205 is hereby amended to read as follows:

293.205 1. On or before the 1st Wednesday in July of every even-numbered year, the county clerk shall establish election precincts, define the boundaries thereof, abolish, alter, consolidate and designate precincts as public convenience, necessity and economy may require in accordance with NRS 293.207 to [293.-215,] 293.213, inclusive.

2. On or before the 1st Wednesday in May in each year when a President of the United States is to be nominated and elected, the county clerk shall establish and define the boundaries of presidential primary election districts as provided in NRS 298.145.

Sec. 5. NRS 293.218 is hereby amended to read as follows:

293.218 The county clerk may provide by rule or regulation for the:

1. Recommendation, by the persons selected as chairman of election boards, of suitable persons to serve as members of election boards; and

2. Recommendation by the chairmen of suitable persons to serve in the case of vacancies . [; and

3. Delegation of responsibility for instruction of the members of the election board required by NRS 293A.350 to the chairman.]

Sec. 6. NRS 293.227 is hereby amended to read as follows:

293.227 1. [In any precinct or district where ballots are used, the election board shall consist] Each election board consists of five members, one of whom shall be designated chairman by the county clerk. Such boards shall make the records of election required by this chapter.

2. The county clerk shall conduct or cause to be conducted, at least 5 days prior to the date of the election for which the boards are appointed, a school for the chairmen for the purpose of acquainting such chairmen with the election laws, duties of election boards, the [rules and] regulations of the secretary of state and with the procedure for making the records of election and using the register for election boards. If the person appointed chairman is unable for any reason to attend such school, he shall appoint some other member of his election board to attend such school in his stead.

3. The board of county commissioners of any county may reimburse the chairmen or their designates who attend such school for their travel expenses at a rate not exceeding 10 cents per mile.

4. Each chairman shall instruct his board before election day.

Sec. 7. NRS 293.243 is hereby amended to read as follows:

293.243 1. [In counties where voting machines are used, the county clerk shall appoint one or more absent ballot central counting boards to count the absent ballot votes cast by the registered voters in such county, as received in the mails by the county clerk or voted in person at his office.

2. Such counting board shall consist of four or more] An absent ballot central counting board consists of election board officers appointed in such numbers as the county clerk determines to be required by the volume of absent ballots requested.

[3.] 2. The county clerk's deputies who perform duties in connection with elections shall be considered officers of the absent ballot central counting board.

[4.] 3. When requested by the county clerk, the sheriff shall appoint a deputy sheriff to keep order during such counting board's counting of the absent ballot votes.

[5.] 4. The counting of the absent ballot votes shall be in public.

[6.] 5. Such counting board shall be under the direction of the county clerk.

[7.] 6. Members of the absent ballot central counting board shall begin the performance of their duties as soon as the polls close, and shall continue in session until all the votes cast on absent voters' ballots are counted.

Sec. 8. NRS 293.250 is hereby amended to read as follows:

293.250 1. The secretary of state shall, in a manner consistent with the election laws of this state, prescribe the form of all ballots, absent ballots, diagrams, sample ballots, certificates, notices, declarations, affidavits of registration, lists, applications, pollbooks, registers, rosters, statements and abstracts required by the election laws of this state.

2. He shall prescribe the arrangement of the matter to be printed on every kind of ballot , [and label,] including:

(a) The placement and listing of all offices, candidates and issues upon which voting is statewide, which shall be uniform throughout the state.

(b) The listing of all other candidates required to file with him, and the order of listing all offices, candidates and issues upon which voting is not statewide, from which each county clerk shall prepare appropriate ballot forms for use in his county.

(c) A condensation of each issue or proposition or constitutional amendment into a question not exceeding 25 words, written in easily understood language. Each such condensation shall be placed nearest the spaces or devices for indicating the voter's choice.

3. The names of candidates for township and legislative or special district offices shall be printed only on the ballots furnished to voters of such township or district.

4. County clerks may divide paper ballots into two sheets in such a manner as to provide a clear understanding and grouping of all questions and candidates.

Sec. 9. NRS 293.257 is hereby amended to read as follows:

293.257 1. There shall be a separate primary ballot for each political party and a separate nonpartisan primary ballot.

2. The names of candidates for partisan offices who have designated a political party in the declaration of candidacy or acceptance of candidacy shall appear on the primary ballot of the political party designated.

3. The names of candidates for nonpartisan offices shall appear on all nonpartisan ballots . [and ballot labels.]

Sec. 10. NRS 293.270 is hereby amended to read as follows:

293.270 1. Voting at any primary or general election shall be on printed ballots or [voting machine ballot labels.] by any other system approved by the secretary of state or specifically authorized by law.

2. Voting shall be only upon candidates whose names appear upon the ballot [or ballot labels] prepared by the election officials, and no person may write in the name of an additional candidate for any office.

Sec. 11. NRS 293.273 is hereby amended to read as follows:

293.273 1. Except as provided in subsections 2 and 3 and NRS 293.305, at all elections held under the provisions of this Title, the polls shall open at 8 a.m. and close at 7 p.m.

2. In counties where a punchcard voting system or [voting machines are] other system in which ballots are counted by an electronic computer or tabulator is used, the polls shall open at 7 a.m. and close at 7 p.m.

3. Whenever at any election all the votes of the precinct or district, as shown on the checklist and roster, have been cast, the election board officers shall close the polls, and the counting of votes shall begin and continue without unnecessary delay until the count is completed.

4. Upon opening the polls one of the election board officers shall cause a proclamation to be made that all present may be aware of the fact that applications of registered voters to vote will be received.

5. No person other than election board officers engaged in receiving, preparing or depositing ballots [, or issuing voting machines admission authorities,] may be permitted inside the guardrail during the time the polls are open, except by authority of the election board as necessary for the purpose of keeping order and carrying out the provisions of this Title.

Sec. 12. NRS 293.287 is hereby amended to read as follows:

293.287 1. A registered voter applying to vote at any primary election shall give his name and political affiliation, if any, to the election board officer in charge of the election board register, and such officer shall immediately announce the name and political affiliation.

2. Any person's right to vote may be challenged by any registered voter upon any of the grounds allowed for a challenge in NRS 293.303 or on the ground that the person applying does not belong to the political party designated upon the register, or that the register does not show that he designated the political party to which he claims to belong.

3. Any such challenge shall be disposed of in the manner provided by NRS 293.303.

4. When the election board is satisfied as to the name, political affiliation and identity of the registered voter, the board shall issue the proper party and nonpartisan ballot \_ [or admission authority.]

Sec. 13. NRS 293.296 is hereby amended to read as follows:

293.296 Any registered voter who by reason of physical disability is unable to mark a ballot or use [a voting machine] any voting device without assistance is entitled to such assistance



from a consenting [individual] person of his own choice, except an election board official who is not the spouse of such registered voter. [No] A person providing assistance to a disabled voter in casting his vote shall not disclose any information with respect to the casting of such ballot. The right to assistance in casting a ballot shall not be denied or impaired when the need for assistance by reason of a disability is apparent or is known to the election board or any member thereof, but the election board may require a registered voter to sign a statement that he requires assistance in casting his vote by reason of disability when the need for assistance is not apparent or no member of the election board has knowledge thereof. Any such statement shall be executed under penalty of perjury.

Sec. 14. NRS 293.303 is hereby amended to read as follows:

293.303 1. A person applying to vote may be challenged orally by any registered voter of the precinct or district upon the ground that he is not the person entitled to vote as claimed, or has voted before on the same day, or on any other ground provided for in this Title.

2. If a person is challenged orally, the election board shall tender him the following oath or affirmation: "Do you swear (or affirm) that you are the person whose name is on the affidavit of registration in this precinct register?"

3. If such person refuses to take the oath so tendered, or if any person is otherwise successfully challenged, such person shall not be issued a ballot , [or admission authority,] and the officer in charge of the election board register shall write the words "Challenged ..... " on the back of such person's affidavit of registration.

4. The election board officers shall record the success of the challenge on the challenge list, and the election board officer in charge of the checklist shall indicate next to the name of the challenged person that such person was challenged successfully.

5. When a challenge is unsuccessful, the challenged person shall be issued a ballot [or an admission authority] and shall be allowed to vote. The election board officers shall record the unsuccessful challenge on the challenge list.

6. In all cases of challenge the decision [shall rest] rests with the election board by majority vote.

7. The election board officers may test the qualifications of the challenged person by asking any relevant question which such officers consider necessary to arrive at a decision.

8. Answers shall be given under oath and compared with the statements on the questioned person's affidavit of registration.

9. The election board officers may refuse to allow a challenged person to vote without further proceedings unless he brings registered voters of the county to be examined under oath as to the qualifications of the challenged person.

10. When the affidavit of registration of a person applying to vote has an affidavit of challenge attached, the officer in charge of the election board register shall cause such challenge to be executed before all the election board officers in the same manner as if such person were challenged orally at the polling place. After such execution, the election board shall proceed to decide in the manner provided in this section for oral challenges.

Sec. 15. NRS 293.310 is hereby amended to read as follows:

293.310 1. A registered voter who requests and receives an absent voter's ballot may vote only by absent ballot at the election for which such absent ballot was issued.

2. When any registered voter has requested an absent ballot and such ballot has been mailed or issued    [or an admission authority to a voting machine has been issued,] the county clerk shall notify the precinct or district election board that the registered voter has requested an absent ballot.

Sec. 16. NRS 293.327 is hereby amended to read as follows:

293.327 [1.] If the request for an absent ballot is made by a registered voter in person, the county clerk shall [, in counties where voting machines are used for voting absent ballots:

(a) Issue a ballot to the voter to be voted on the premises of such clerk's office and shall follow the same procedure as in the case of absent ballots received in the mail; or

(b) Issue to such voter an admission authority to the voting machine which has the proper ballot listing required for such voter. When such voter has indicated his vote on the voting machine, the proper record shall be made in the pollbook and roster, or the record book incorporating poll and roster book, showing that such voter has voted an absent ballot.

2. In all other counties, the county clerk shall] issue an absent ballot [or an absent ballot punchcard] to the registered voter, and such ballot shall be voted on the premises of such clerk's office and returned to the clerk. The clerk shall follow the same procedure as in the case of absent ballots received by mail.

Sec. 17. NRS 293.365 is hereby amended to read as follows:

293.365 No counting board [in any precinct or district in which ballots are used] may commence to count the votes until all ballots used or unused are accounted for.

Sec. 18. NRS 293.387 is hereby amended to read as follows:

293.387 1. As soon as the returns from all the precincts and districts in any county have been received by the board of county commissioners, such board shall meet and proceed to canvass the

returns. The canvass shall be completed on or before the 10th day following the election.

2. In making its canvass, the board of county commissioners shall:

- (a) Note separately any clerical errors discovered;
- (b) Take account of the changes resulting from such discovery, so that the result declared will represent the true vote cast.

3. The county clerk shall, as soon as the result is declared, enter upon the records of such board an abstract of the result, which shall contain the number of votes cast for each candidate. The board of county commissioners, after making such abstract of [of votes,] shall cause the county clerk, by an order made and entered in the minutes of its proceedings, to make a copy of such abstract and transmit [the same] it to the secretary of state within 10 days after the day of election.

4. The secretary of state shall, immediately after any primary, compile the returns for all candidates voted for in more than one county. He shall make out and file in his office an abstract thereof, and shall certify to the county clerk of each county the name of each person nominated, and the name of the office for which he is nominated.

[5. When the result of any election involving a voting machine is challenged because of a possible malfunctioning voting machine,

the board of county commissioners shall unlock, examine and test the counting and voting mechanisms of such machine. In testing such machine, each lever involved in the contested race shall be operated at least 100 times. After completion of such examination a statement shall be prepared by the board of county commissioners conducting the examination. Such statement shall be in writing and shall be witnessed by at least two persons who were present. It shall then be filed with the board of county commissioners and the secretary of state.]

Sec. 19. NRS 293.410 is hereby amended to read as follows:

293.410 1. A statement of contest shall not be dismissed by any court for want of form if the grounds of contest are alleged with sufficient certainty to inform the defendant of the charges he is required to meet.

2. An election may be contested upon any of the following grounds:

(a) That the election board or any member thereof was guilty of malfeasance.

(b) That a person who has been declared elected to an office was not at the time of election eligible to that office.

(c) That illegal votes were cast and counted for the defendant, which, if taken from him, will reduce the number of his legal votes below the number necessary to elect him.

(d) That the election board, in conducting the election or in canvassing the returns, made errors sufficient to change the result of the election as to any person who has been declared elected.

(e) That the defendant has given, or offered to give, to any person a bribe for the purpose of procuring his election.

(f) That there was a possible malfunction of [a voting machine.] any voting or counting device.

Sec. 20. NRS 293.425 is hereby amended to read as follows:

293.425 1. If the contest is for the office of assemblyman or state senator, a statement of contest, prepared as provided in NRS 293.407, and all depositions, ballots [, records of voting machine counters and all] and other documents relating to the contest shall be filed with the secretary of state within the time provided for the filing of statements of contests with the clerk of the district court.

2. When a statement of contest is filed with the secretary of state , he shall immediately notify the governor, who shall withhold issuing a certificate of election. If the governor has issued a certificate of election prior to receipt of notice from the secretary of state , such certificate is void.

Sec. 21. NRS 293.430 is hereby amended to read as follows:

293.430 1. If the contest is for the office of governor, lieutenant governor or justice of the supreme court, the statement

of contest and all depositions, ballots [, a record of voting machine counters and all] and other documents relating to such contest shall be filed with the secretary of state within the time provided for filing statements of contests with the clerk of the district court.

2. The secretary of state shall deliver the statement of contest and all other papers and documents to the speaker of the assembly on or before the second day after the organization of the legislature.

3. A joint session of both houses shall be convened as soon thereafter as the business of both houses permits, but not later than 10 days after receipt of statement of contest.

Sec. 22. NRS 293.480 is hereby amended to read as follows:

293.480 Until the time for contest of election has expired, the ballots [or voting machines] returned to the county clerk may not be inspected by any person, except in cases of recount or election contest, and then only by the judge, special master, board or legislative body before whom such election is being contested or who is conducting the recount.

Sec. 23. NRS 293B.110 is hereby amended to read as follows:

293B.110 A punchcard system may be adopted for some of the precincts or districts in the same county or city, while the remainder of the precincts or districts in such county or city may be [equipped with voting machines or] furnished with paper ballots.



Sec. 24. NRS 295.045 is hereby amended to read as follows:

295.045 1. Whenever a number of registered voters of this state equal to 10 percent or more of the number of voters who voted at the last preceding general election [shall] express their wish by filing with the secretary of state, not less than 4 months before the date of the next succeeding general election, a petition in the form provided for in NRS 295.055 that any statute or resolution or any part thereof enacted by the legislature be submitted to a vote of the people, the secretary of state shall submit the question of approval or disapproval of such statute or resolution or any part thereof to a vote of the voters at the next succeeding election at which such question may be voted upon by the registered voters of the entire state.

2. The secretary of state shall certify the questions to the county clerks, and they shall publish [the same] them in accordance with the provisions of law requiring county clerks to publish questions and proposed constitutional amendments which are to be submitted for popular vote.

3. The title of the statute or resolution shall be set out on the ballot, and the question printed upon the ballot for the information of the voters shall be as follows: "Shall the statute (setting out the title thereof) be approved?".

4. Where [voting machines are used] the punchcard voting system is used, the title of the statute shall appear on the ballot [label] card or ballot page assembly and may be condensed to 20 words.

5. The votes cast upon such question shall be counted and canvassed as the votes for state officers are counted and canvassed.

6. If a majority of the voters voting upon the proposal submitted at such election votes approval of such statute or resolution or any part thereof, such statute or resolution or any part thereof shall stand as the law of the state and shall not be amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people. If a majority of such voters votes disapproval of such statute or resolution or any part thereof, such statute or resolution or any part thereof shall be void and of no effect.

Sec. 25. NRS 295.170 is hereby amended to read as follows:

295.170 1. The subject matter of such questions shall be stated concisely on the ballot, and the question printed upon the ballot for the information of the voter shall be as follows: "Shall the act (setting out the title thereof) be approved?".

2. Where [voting machines are] the punchcard voting system is used, the title of the act shall appear on the ballot [label] card or ballot page assembly and may be condensed by the district attorney to 20 words.

3. The district attorney shall prepare an explanation of each such question, which shall be placed on the ballot [label.] or ballot page assembly or posted in the polling place.

4. The votes cast upon such question shall be counted and canvassed as the votes for county officers are counted and canvassed.

Sec. 26. NRS 306.060 is hereby amended to read as follows:

306.060 1. [Upon] Except as provided in subsection 2, upon the ballot for the election there shall be printed verbatim, as set forth in the recall petition, the reason for demanding the recall of the officer, and in not more than 200 words, if furnished by him, the officer's justification of his course in office.

2. Where [voting machines are] the punchcard voting system is used, the reason for demanding the recall of the officer and the officer's justification [shall] need not be printed on the ballot [label,] or ballot page assembly, but shall be printed on sample ballots, which may be mailed to all registered voters or presented to registered voters upon their application to vote.

Sec. 27. NRS 306.070 is hereby amended to read as follows:

306.070 1. If there are no other candidates nominated to be voted for at the special election, there shall be printed on the ballot [and ballot label] or ballot page assembly the name of the officer sought to be recalled, the office which he holds, and the words "For Recall" and "Against Recall."

2. If there are other candidates nominated for the office to be voted for at the special election, there shall be printed upon the ballot [and ballot label] or ballot page assembly the name of the officer sought to be recalled, and the office which he holds, and the name or names of such other candidates as may be nominated to be voted for at the special election, and the words "For Recall" and "Against Recall" shall be omitted.

3. In other respects the ballot shall conform with the requirements of the election laws of this state.

Sec. 28. NRS 293.020, 293.023, 293.215 and 293A.010 to 293A.-570, inclusive, are hereby repealed.

SUMMARY--Establishes a system of random arrangement for candidates' names on ballots. (BDR 24-105)

Fiscal Note: Local Government Impact: No.  
State or Industrial Insurance Impact:  
Effect less than \$2,000.

AN ACT relating to elections; establishing a system of random arrangement of candidates' names on ballots; 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. Chapter 293 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. In each even-numbered year, on the day following the last day on which a declaration or an acceptance of candidacy may be filed for a primary election, the secretary of state shall conduct a public drawing of the letters of the alphabet.

2. The letters in the order in which they are drawn are the secretary of state's random arrangement. This arrangement, applied first to the initial letter and then if necessary to the second and succeeding letters of the name, governs the order of listing candidates' names in each state, county, city, township or district election conducted during the ensuing biennium.

3. After every drawing the secretary of state shall promptly furnish a copy of the random arrangement to each county clerk or registrar of voters.

Sec. 2. NRS 293.263 is hereby amended to read as follows:

293.263 On political party primary ballots the name of the particular political party shall appear at the top of the ballot. Following this designation shall appear the names of candidates grouped [alphabetically] in the order of the secretary of state's random arrangement under the title of the partisan office for which such candidates filed.

Sec. 3. NRS 293.265 is hereby amended to read as follows:

293.265 On nonpartisan primary ballots there shall appear at the top of the ballot the designation "Candidates for nonpartisan offices." Following this designation shall appear the names of candidates grouped [alphabetically] in the order of the secretary of state's random arrangement under the title of the nonpartisan office for which such candidates filed.

Sec. 4. NRS 293.267 is hereby amended to read as follows:

293.267 1. General election ballots shall contain the names of candidates who were nominated at the primary election and the names of independent candidates.

2. Names of candidates shall be grouped [alphabetically] in the order of the secretary of state's random arrangement under the title of the office for which such candidates filed.

3. Except as provided in subsection 4:

(a) Immediately following the name of each candidate for a partisan office shall appear the name of his political party or the word "independent," as the case may be.

(b) Immediately following the name of each candidate for a non-partisan office shall appear the word "nonpartisan."

4. [In prescribing the form of ballot labels,] Where a system of voting other than by paper ballot is used, the secretary of state may provide for any placement of the name of the political party or the word "independent" or "nonpartisan" which clearly relates such designation to the name of the candidate to whom it applies.

Sec. 5. NRS 293.268 is hereby amended to read as follows:

293.268 The offices for which there are candidates and the names of the candidates therefor shall be listed in the order in which they are certified by the secretary of state. Such offices and names shall be followed by the county and other offices for which there are candidates with the names of the candidates for such offices listed in [alphabetical order.] the order of the secretary of state's random arrangement. The secretary of state may, by regulation, set standards for the placement of county and township offices.

Sec. 6. NRS 298.115 is hereby amended to read as follows:

298.115 1. The names of candidates for political party nominations for President of the United States shall be printed on the official ballots for the presidential preference primary. There shall be a separate ballot for each political party.

2. The names of the presidential candidates shall be printed [alphabetically] in the order of the secretary of state's random arrangement upon the ballot of the political party whose nomination they seek.



SUMMARY--Revises election laws. (BDR 24-106)

Fiscal Note: Local Government Impact: No.

State or Industrial Insurance Impact:  
Yes.

AN ACT relating to elections; revising provisions on deputy registrars' duties, mailing sample ballots and change of party affiliation; requiring the state to bear certain costs of publication of ballot questions; adding provisions on voting secrecy; clarifying other provisions; 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. Chapter 293 of NRS is hereby amended by adding thereto a new section which shall read as follows:

Secrecy in the act of voting shall be preserved in elections by the people under every system of voting used in this state.

Sec. 2. NRS 293.025 is hereby amended to read as follows:

293.025 "Ballot" means : [the printed paper bearing the listing of candidates' names, and of questions to be voted upon at an election.] 1. The listing of candidates' names or questions or both to be voted upon at an election.

2. The medium used for recording the voters' choices at an election, and in this sense the term includes the ballot card used in the punchcard voting system.

Sec. 3. NRS 293.150 is hereby amended to read as follows:

293.150 1. The delegates elected to the state convention of each political party by the several county conventions of such party shall convene on such respective dates as the state central committees of the parties [shall] may designate, or if an earlier date is not designated then on the 2nd Tuesday in May in each year in which the general state election is to be held, at the state capital, or at such other place in the state as the state central committee of such party [shall] may designate. The delegates shall there organize, adopt a state party platform, and elect a state central committee for such party for the ensuing term and the chairman thereof. In a presidential year, the state convention shall also select the necessary delegates and alternates to the national convention of the party, and, if permitted by the rules or regulations of the party, shall select the national committeeman and committee-woman of the party from the State of Nevada.

2. The state central [committee of the parties] committees may convene additional state conventions of their respective parties at such times and places as they [shall] may designate during the period between the state conventions, as provided in subsection 1, and the next ensuing precinct

meetings, as provided in NRS 293.135. The delegate composition at such conventions shall be the same as that certified pursuant to subsection 3 of NRS 293.140.

Sec. 4. NRS 293.176 is hereby amended to read as follows:

293.176 No person may be a candidate for a party nomination in any primary election if he has changed the designation of his political party affiliation on an official affidavit of registration in the State of Nevada or in any other state since September 1 prior to the closing filing date for such election [.] unless the party for whose nomination he is a candidate first became qualified as a political party in this state after that September 1.

Sec. 5. NRS 293.230 is hereby amended to read as follows:

293.230 1. In precincts or districts where there are less than 200 registered voters [,] and paper ballots are used, the election board shall perform all duties required from the time of preparing for the opening of the polls through delivering the supplies and result of votes cast to the county clerk.

2. Except as provided in NRS 293.235, one election board shall be appointed by the county clerk for all mailing precincts within the county, and shall be designated the central election board. The county clerk shall deliver the

mailed ballots to such board in his office and the board shall count the votes on such ballots in the manner required by law.

Sec. 6. NRS 293.233 is hereby amended to read as follows:

293.233 In each precinct or district where there are 200 or more registered voters [,] and paper ballots are used, the county clerk shall appoint two election boards and designate one the voting board and the other the counting board. The officers of the counting board shall count the votes and make the record of the votes. The voting board shall account for the records at the time the polls are closed and deliver to the counting board the ballot box containing the voted ballots and all other books and supplies in their possession. Upon such delivery, the counting board shall perform their duties as required by law. The time of service for the counting board shall be from the closing of the polls through the returning of the supplies and the result of votes cast to the county clerk.

Sec. 7. NRS 293.253 is hereby amended to read as follows:

293.253 1. The secretary of state shall provide each county clerk with copies of any proposed constitution, constitutional amendment or question which will appear on the general election ballot.

2. Whenever feasible, he shall provide such copies on or before the 1st Monday in August of the year in which [such] the proposals will appear on the ballot. Copies of any additional proposals shall be provided as soon after their filing as feasible.

3. Each county clerk shall cause a copy of any such proposed constitution, constitutional amendment or question to be published, in conspicuous display advertising format of not less than 10 column inches, in a newspaper of general circulation in the county three times at intervals of not less than 7 days, the first publication to be on or before the 1st Monday in October. If no such newspaper is published in the county, then [such] publication may be made in a newspaper of general circulation published in the nearest Nevada county.

4. When a copy is furnished by the secretary of state too late to be published at 7-day intervals, it shall be published three times at the longest intervals feasible in each county.

5. The cost of such publication shall be paid by the state, and each county clerk may submit a claim therefor to the secretary of state.

Sec. 8. NRS 293.269 is hereby amended to read as follows:

293.269 1. Every ballot upon which [appears] appear the names of candidates for any statewide office or for President

and Vice President of the United States shall contain for each office an additional line equivalent to the lines on which the candidates' names appear and placed at the end of the group of lines containing the names of the candidates for that office. Each additional line shall contain a square in which the voter may express his choice of that line in the same manner as he would express his choice of a candidate, and the line shall read "None of these candidates."

2. Only votes cast for the named candidates shall be counted in determining nomination or election to any statewide office or presidential nominations or the selection of presidential electors, but for each office the number of ballots on which the additional line was chosen shall be listed following the names of the candidates and the number of their votes in every posting, abstract and proclamation of the results of the election.

3. Every sample ballot or other instruction to voters prescribed or approved by the secretary of state shall clearly explain that the voter may mark his choice of the line "None of these candidates" only if he has not voted for any candidate for the office.

Sec. 9. NRS 293.277 is hereby amended to read as follows:

293.277 1. No person may vote at any election unless

his name, on the day of election, appears on the election board register furnished by the county clerk to the precinct or district election board, or unless such person presents a certificate of error issued by the county clerk.

2. [If a person's name appears in the election board register or on a certificate of error, such person is entitled to vote, and he shall sign his name in the precinct or district roster when he applies to vote. Such signature shall be compared by an election board officer] A registered voter applying to vote shall state his name to the election board officer in charge of the election board register. The officer shall immediately announce the applicant's name and have him sign his name in the precinct or district roster.

3. An election board officer shall then compare the applicant's signature on the roster with that on his original affidavit of registration or certificate of error.

Sec. 10. NRS 293.285 is hereby amended to read as follows:

293.285 1. [A registered voter applying to vote shall state his name to the election board officer in charge of the election board register and such officer shall immediately announce the name and take the registered voter's signature.] After [a] the registered voter is properly identified at [a] the polling place [where ballots are used, one partisan ballot and, if required, one nonpartisan ballot, correctly folded] , a ballot shall be given to such voter and

the number of [such ballot or ballots] the ballot shall be written by an election board officer upon the pollbook, opposite the name of the registered voter receiving the ballot . [or ballots.]

2. In pollbooks in which voters' names have been entered, election officers may indicate the application to vote without writing the name.

Sec. 11. NRS 293.293 is hereby amended to read as follows:

293.293 Where paper ballots are used for voting:

1. Except as provided in subsection 2 the voter shall mark his ballot in no other manner than by stamping a cross (X) in the square following the name of each candidate for whom he intends to vote for each office, or upon one of the lines provided pursuant to NRS 293.269, except that in a general election, at which the names of candidates for President and Vice President of the United States are on the ballot, followed by the designation of their party, one vote for the party designated shall constitute a vote for such party's candidates for President and Vice President.

2. If a proposed constitutional amendment or other question is submitted to the registered voters, the cross shall be placed in the square following the answer which the voter chooses to give.

3. Before leaving the booth, the voter shall fold his ballot in such a manner that the watermark and the number of



the ballot appear on the outside, without exposing how he voted, and shall keep it so folded until he has delivered it to the officer from whom he received it, who shall announce the number of the ballot in an audible voice.

4. The election board officer who is in charge of the pollbook shall repeat the number, and mark in the column opposite the number the word "Voted," or a character indicating the word "Voted."

5. The election board officer who receives the voted ballot shall separate from the ballot the strip bearing the number and shall deposit the ballot in the ballot box in the presence of the voter.

6. No ballot may be deposited in the ballot box unless the watermark appears thereon, and until the slip containing the number of the ballot has been removed therefrom by the election board officer. The strip bearing the number shall be retained by the election board officer.

Sec. 12. NRS 293.296 is hereby amended to read as follows:

293.296 [Any] 1. If any registered voter [who by reason of physical disability] is unable to mark a ballot or use a [voting machine without assistance is entitled to such assistance from a consenting individual] voting device without assistance because of his disability or illiteracy

or is unable to understand the voting instructions and ballot without the assistance of an interpreter, the voter is entitled to the necessary assistance from a consenting person of his own choice, except an election board official who is not the spouse of [such registered voter. No] the voter.

2. A person providing such assistance to a [disabled] voter in casting his vote shall not disclose any information with respect to the casting of such ballot. [The right to assistance in casting a ballot shall not be denied or impaired when the need for assistance by reason of a disability is apparent or is known to the election board or any member thereof, but the election board]

3. The assistance shall not be denied when the need is apparent or known to any member of the election board, but it may require [a registered] the voter to sign a statement that he requires assistance [in casting his vote by reason of disability] when the need for [assistance] it is not apparent or no member of the election board has knowledge thereof. Any such statement shall be executed under penalty of perjury.

Sec. 13. NRS 293.297 is hereby amended to read as follows:

293.297 1. Any voter who spoils his ballot may return such spoiled ballot to the election board and receive another in its place.

2. The election board officers shall indicate in the pollbook that such ballot is spoiled and shall enter the number of the ballot issued in its place.

3. Each spoiled ballot returned shall be canceled [without unfolding it] by writing the word "Canceled" across the back of the ballot. A paper ballot shall be canceled without unfolding it.

4. A record shall be made of such canceled ballots at the closing of the polls and before counting. Such ballots shall be placed in a separate envelope and returned to the county clerk with the election supplies.

Sec. 14. NRS 293.307 is hereby amended to read as follows:

293.307 After the last person entitled to vote has voted [,] in any precinct or district where a voting board and counting board have been appointed, the voting board, before adjourning, shall put the records and the account of ballots in order for the counting board.

Sec. 15. NRS 293.330 is hereby amended to read as follows:

293.330 1. When an absent voter receives his ballot, he shall stamp and fold [his ballot] it, if it is a paper ballot, or punch it, if it is a punchcard ballot, in accordance with the instructions, deposit it in the return envelope, seal the envelope and affix his signature on the

back of the envelope in the space provided therefor. The return envelope shall be mailed by such absent voter, postage prepaid.

2. If the absent voter who has received a ballot by mail applies to vote [such] the ballot in person at the county clerk's office, he shall stamp or punch the ballot, seal it in the return envelope and affix his signature in the same manner as provided in subsection 1, and deliver the envelope to the county clerk.

Sec. 16. NRS 293.363 is hereby amended to read as follows:

293.363 When the polls are closed [,] in precincts or districts where a counting board has been appointed, the counting board shall prepare to count the vote. The counting procedure shall be public and continue without adjournment until completed. The counting board shall prepare in the following manner:

1. The pollbooks shall be compared and errors corrected until the books agree.

2. The ballot box shall be opened and the ballots contained therein counted by the counting board and opened far enough to ascertain whether each ballot is single. If two or more ballots are found folded together to present the appearance of a single ballot, they shall be laid aside

until the count of the ballots is completed. If, on comparison of the count with the pollbook, a majority of the inspectors are of the opinion that the ballots thus folded together were voted by one person, such ballots shall be rejected and placed in an envelope, upon which shall be written the reason for their rejection. The envelope shall be signed by the counting board officers and placed in the ballot box after the count is completed.

3. If the ballots in the box are found to exceed in number the number of names on the pollbooks, the ballots shall be replaced in the box, and a counting board officer, with his back turned to the box, shall draw out a number of ballots equal to the excess. Such excess ballots shall be marked on the back thereof with the words "Excess ballots not counted." Such ballots when so marked shall be immediately sealed in an envelope and returned to the county clerk with the other ballots rejected for any cause.

4. When it has been ascertained that the pollbook and the number of ballots agree with the number of names of registered voters shown to have voted, the board shall proceed to count. If there is a discrepancy between the number of ballots and the number of voters, a record of the discrepancy shall be made.

Sec. 17. NRS 293.367 is hereby amended to read as follows:

293.367 1. The basic factor to be considered by an election board when making a determination of whether or not a particular ballot should be rejected is whether any identifying mark appears on the ballot which, in the opinion of the election board, constitutes an identifying mark such that there is a good faith and reasonable belief that the ballot has been tampered with and, as a result of such tampering, the outcome of the election would be affected.

2. [Regulations for counting ballots shall include provisions that:

(a)] A ballot which lacks the proper secretary of state's official mark may not be counted, but such ballots shall be preserved and returned with the other ballots.

[(b) A vote may not be counted unless indicated by a cross in the appropriate square.

(c) An error in marking one or more votes on a ballot shall not invalidate any votes properly marked on such ballot.

(d) If more choices than permitted by the instructions are marked for any office or question, the vote for such office or question may not be counted.

(e) If it is impossible to determine a voter's choice for any office or question, his vote or votes for such office or question may not be counted.

(f)] 3. A soiled or defaced ballot may not be rejected if it appears that the soiling or defacing was inadvertent and was not done purposely to identify the ballot.

[(g)] 4. Only devices provided for in this [chapter] Title may be used in [marking] voting ballots.

5. In counties where punchcard ballots are used, a superfluous punch into a ballot card is not a sufficient cause for rejecting the ballot unless the election board determines that the condition of the ballot otherwise justifies its rejection pursuant to subsection 1.

6. In counties where paper ballots are used, a vote may not be counted unless it is indicated by a cross in the appropriate square.

7. An error in marking or punching one or more votes on a ballot does not invalidate any votes properly marked or punched on such ballot.

8. If more choices than permitted by the instructions are voted for any office or question, the vote for such office or question may not be counted.

9. If it is impossible to determine a voter's choice for any office or question, his vote or votes for such office or question may not be counted.

[(h)] 10. It is unlawful for any election board officer to place any mark upon any ballot other than a spoiled ballot.

[(i)] 11. When an election board officer rejects a ballot for any alleged defect or illegality, [such officer] he shall seal [such] the ballot in an envelope and write upon the envelope a statement that it was rejected and the reason therefor.

[(j)] In counties where punchcard ballots are utilized, a superfluous punch into any ballot card does not constitute grounds for rejection of the ballot unless the election board determines that the condition of the ballot justifies its exclusion pursuant to subsection 1.]

Sec. 18. NRS 293.370 is hereby amended to read as follows:

293.370 When all the votes have been tallied, the [counting board] officers who have conducted the count shall enter on the tally lists , by the name of every person voted for , the office for which such person received such votes [,] and the number of votes he received. The number shall be expressed in words and figures. The vote for and against any question submitted to the electors shall be entered in the same manner.

Sec. 19. NRS 293.373 is hereby amended to read as follows:

293.373 1. After the tally lists have been completed [,] in precincts or districts where paper ballots are used, the counting board officers shall:



(a) File the voted ballots on a string, enclose and seal them in an envelope marked "Election returns, voted ballots."

(b) File the rejected ballots on a string, enclose and seal them in an envelope marked "Election returns, rejected ballots."

(c) Place one of the tally lists for regular ballots and one of the pollbooks in an envelope marked "Election returns" and seal the envelope.

2. The voted ballots, rejected ballots, tally lists for regular ballots, tally list for rejected ballots, challenge list, stubs of used ballots and unused ballots shall be sealed under cover by the counting board officers and addressed to the county clerk.

3. The other pollbooks, tally lists and election board register shall be returned to the county clerk.

Sec. 20. NRS 293.391 is hereby amended to read as follows:

293.391 1. The voted ballots, rejected ballots, spoiled ballots, tally lists, challenge lists and stubs of the ballots used, enclosed and sealed, shall, after canvass of the votes by the board of county commissioners, be deposited in the vaults of the county clerk, and preserved for at least 60 days. If a statement of contest has been filed, the affected ballots must be preserved for 2 years.

2. The pollbooks and tally lists deposited with the board of county commissioners [shall be] are subject to the inspection of any elector who may wish to examine [the same] them at any time after their deposit with the county clerk.

3. The ballots deposited with the county clerk [shall not be] are not subject to the inspection of anyone, except in cases of a recount or contested election, and then only by the county clerk and recount board or the judge, body or board before whom such election is being contested.

Sec. 21. NRS 293.404 is hereby amended to read as follows:

293.404 1. Where a recount is demanded pursuant to the provisions of NRS 293.403, the county clerk of each county affected by the recount shall employ a recount board to conduct the recount in the county, and shall act as chairman of the recount board unless the recount is for the office of county clerk, in which case the chairman of the board of county commissioners shall act as chairman of the recount board. At least one member of the board of county commissioners shall be present at the recount. Each candidate for the office affected by the recount may be present in person or by an authorized representative, but shall not be a member of the recount board.

2. Except in counties using a punchcard voting system, the recount shall include a count and inspection of all

ballots, including rejected ballots, and shall determine whether such ballots are marked as required by law.

3. If a recount is demanded in a county using a punchcard voting system, the county clerk shall select at random the ballots for the office affected from 5 percent of the precincts, but in no case fewer than 3 precincts, after consultation with each candidate for the office or his authorized representative. The recount board shall examine the selected ballots, [shall, after hearing any challenges, determine whether the ballots are marked as required by law] including any duplicated or rejected ballots, shall determine whether the ballots have been voted in accordance with the election laws and shall handcount the valid ballots. A computer recount shall be made of all the selected ballots. If the handcount of the selected ballots or the computer recount shows a discrepancy of 1 percent or more for either candidate from the original canvass of the returns, the county clerk shall order a handcount of all the ballots for that office. If there is not a discrepancy of 1 percent or more for any candidate, the county clerk shall not order a handcount, but shall order a computer recount of all the ballots for the office.

4. The county clerk [shall have authority to] may unseal and give to the recount board all ballots to be counted.

5. In the case of a demand for a recount affecting more than one county, the demand shall be made to the secretary of state, who shall notify the county clerks to proceed with the recount.

Sec. 22. NRS 293.405 is hereby amended to read as follows:

293.405 1. If the candidate who demanded the recount does not prevail, and it is found that the fee paid was less than the cost of the recount, such candidate shall, upon demand, pay the deficiency to the county clerk or secretary of state, as the case may be. If the sum deposited is in excess of the cost, the excess shall be refunded to [him.] the candidate, whether or not he prevails.

2. Each recount shall be commenced within 3 days after demand, and shall be completed within 3 days after it is begun. Sundays and holidays shall not be excluded in determining each 3-day period.

Sec. 23. NRS 293.505 is hereby amended to read as follows:

293.505 1. All justices of the peace, except those located in county seats, are ex officio deputy registrars for the purpose of carrying out the provisions of this chapter.

2. The county clerk may appoint registered voters as deputy registrars, who shall register voters within such areas of the county for which they are appointed [.] as the

county clerk may delineate. Except as provided in subsection 1, a candidate for any office may not be appointed or serve as a deputy registrar. Deputy registrars so appointed shall serve at the pleasure of the county clerk and shall perform their duties as the county clerk may direct.

3. [Deputy registrars] A deputy registrar may demand of any person who applies for registration all information required by the affidavit of registration, and may administer all oaths required by this chapter. A deputy registrar shall register any qualified person who applies to him without regard to partisan affiliation.

4. When a deputy registrar has in his possession five or more completed affidavits of registration, he shall forward them to the county clerk, but in no case may he hold any number of such forms for more than 5 days.

5. Immediately after the close of registration, each deputy registrar shall forward to the county clerk all completed affidavits in his possession. Within 5 days after the close of registration for a general election, a deputy registrar shall return all unused affidavits in his possession to the county clerk.

6. [Deputy registrars] Each deputy registrar shall submit to the county clerk an alphabetical list of names of

electors registered by him, giving the serial number of the affidavit used for each named registrant.

7. Each deputy registrar shall post notices sent to him by the county clerk for posting in accordance with the election laws of this state.

8. Any person who violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 24. NRS 293.565 is hereby amended to read as follows:

293.565 1. At least [15] 7 days prior to any election, the county clerk shall cause to be mailed to each registered voter in the county a sample ballot for his precinct with a notice informing such voter of the location of his polling place.

2. The cost of mailing sample ballots for elections which are not either primary or general elections shall be borne by the political subdivision holding such election.

Sec. 25. Chapter 293B of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. After identification of a registered voter, an election board officer shall give the voter a ballot card or series of cards of appropriate type and a protective envelope, and shall record the number of the card or card series in the pollbook opposite the voter's name.

2. After the voter has punched his ballot card or series and placed it in the protective envelope, an election board officer shall take the envelope, and without exposing the enclosed ballot card or series, remove the numbered stub and deposit the protective envelope containing the ballot card or series in the ballot box in the presence of the voter.

293B.200 The sample ballots shall be either in full or reduced size and shall contain suitable illustrated directions for voting on the [punchboard] punchcard vote recording device.

Sec. 27. NRS 293B.370 is hereby amended to read as follows:

293B.370 The absent ballot mailing precinct inspection board shall:

1. Perform functions similar to those of the central ballot inspection board and the ballot duplicating board as such functions are applicable to absent and mailing ballots.

2. Bundle the empty absentee and mailing return envelopes according to ballot type or precinct and deliver the bundles to the county clerk.

3. Treat any absentee or mailing [ballot] envelope found not to contain a ballot as a rejected ballot and place each such envelope in a separate larger envelope on which shall be written the ballot code or precinct and the reason for the rejection.

Sec. 28. NRS 298.125 is hereby amended to read as follows:

298.125 The form of presidential preference primary ballots shall be substantially as follows:

(Form of Ballot)

..... Party

Presidential Preference Primary

Instructions: If you desire to vote for any candidate, or if you desire to express a lack of confidence in all of the candidates, stamp a cross (X) in the square (or punch with the stylus at the indicated point) following your selection.

Presidential Candidates

(vote for one)

(Name of candidate).....☐

(Name of candidate).....☐

(Name of candidate).....☐

(None of these candidates).....☐

Sec. 29. NRS 304.020 is hereby amended to read as follows:

304.020 1. Certificates of nomination of candidates for United States Senator shall be filed with the secretary of state, who shall certify the names of all candidates to the county clerks as required by law in the case of candidates for state offices. The county clerks, in preparing the ballots to be voted at any such general election, shall place thereon the names of all such candidates under the words "U.S. Senator--Vote for [one," and] one."



2. Where paper ballots are used, there shall be a margin at the right-hand side of these names at least one-half inch wide, where the voter may indicate his choice of the candidates by making a cross.

Sec. 30. NRS 293.070, 293.163, 293B.055, 293B.060, 293B.065 and 293B.175 are hereby repealed.