



POLICY AND PROGRAM REPORT



Elections

April 2016

Voting is the cornerstone of our democracy. President Franklin D. Roosevelt captured this sentiment and the importance of direct elections in a 1936 speech when he said:

Inside the polling booth, every American man and woman stands as the equal of every other American man and woman. There they have no superiors. There they have no masters save their own minds and consciences.

To ensure Nevadans continue to enjoy an accessible, transparent, and fair election system, it is vital that the Legislature, the Secretary of State, and local election officials keep pace as new technologies become available and our State’s demographics continue to change. Staying current with case law relating to elections and campaign finance and monitoring election changes at the federal level also are very important.

The Secretary of State and the county election officials are responsible for ensuring that Nevada has an accessible, transparent, and fair election system. In Clark and Washoe Counties, the county election official is the Registrar of Voters, who is appointed by the county commission. In the other 15 counties, the county election official is the county clerk, who is an elected official.

VOTER ELIGIBILITY AND VOTER REGISTRATION

Qualified Electors and Applications to Register to Vote

Qualifications to register to vote and cast a ballot are set forth in the *Nevada Constitution* and in *Nevada Revised Statutes* (NRS). Specifically, Article 2, Section 1 of the *Nevada Constitution* sets forth the “right of suffrage” by declaring:

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All citizens of the United States (not laboring under the disabilities named in this constitution) of the age of eighteen years and upwards, who shall have actually, and not constructively, resided in the state six months, and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now or hereafter may be elected by the people, and upon all questions submitted to the electors at such election; *provided*, that no person who has been or may be convicted of treason or felony in any state or territory of the United States, unless restored to civil rights, and no person who has been adjudicated mentally incompetent, unless restored to legal capacity, shall be entitled to the privilege of an elector.

Several provisions in NRS discuss residency, when it is gained or lost, and how qualified electors residing outside of Nevada (such as military personnel) may register to vote. Nevada law also requires the Secretary of State to prescribe a standard voter registration form and sets forth the contents of the voter registration application. After the form is received and processed by the county election office, the county election officer provides a voter registration card to the applicant.

National Voter Registration Act of 1993

Many of Nevada's provisions concerning voter registration were added to NRS in 1993 and 1995 in response to the National Voter Registration Act (NVRA) of 1993, commonly known as the "Motor Voter Act." All states approved legislation in the mid-1990s to comply with the NVRA requirements. The Act provided a set of national voter registration standards designed to improve registration access and established a national mail-in voter registration application. Many of the NVRA requirements were incorporated into two comprehensive election and voter registration measures in Nevada adopted in the mid-1990s—Senate Bill 250 (Chapter 523, *Statutes of Nevada 1993*), and Assembly Bill 619 (Chapter 608, *Statutes of Nevada 1995*). These measures set out new requirements authorizing voter registration not only at the Department of Motor Vehicles (DMV), but also at "offices that provide public assistance as are designated by the Secretary of State" and at "each office that receives money from the State of Nevada to provide services to persons with disabilities in this State." In 2011, the Legislature added military recruiting offices to the list of approved voter registration agencies.

Nevada law provides that county election officers must make mail-in voter registration applications available at various public places in their respective counties. Similarly, *Nevada Administrative Code* 293.425 requires county clerks and voter registrars to make voter registration applications available to individual candidates, political parties, civic groups, and groups organized for or against questions on a ballot. Groups requesting more than 50 applications must complete a request form setting forth how the applications will be distributed.

To ensure that new voter registration applications are processed properly, Nevada law requires that the following notice to the applicant be placed on applications to register to vote by mail:

NOTICE: You are urged to return your application to register to vote to the County Clerk in person or by mail. If you choose to give your completed application to another person to return to the County Clerk on your behalf, and the person fails to deliver the application to the County Clerk, you will not be registered to vote. Please retain the duplicate copy or receipt from your application to register to vote.

This language was added to the law in 2001 to remind voters of the risks involved with relying on another person to return their voter registration application. A person who registers to vote by mail without providing a form of identification and who is voting for the first time since registering to vote, may only vote at a polling place if he or she presents an acceptable form of identification at the polling place. However, the person may vote by mail (absentee) if identification is provided to the county election officer. If the voter cannot provide identification at the first election after he or she registers, he or she may cast a provisional ballot.

In recent years, online voter registration has become a popular method of registration. Nevada law now requires the Secretary of State to prescribe procedural and system requirements to be used for any system of online voter registration offered by a county clerk. A person who registers online must vote in person and present an accepted form of identification at the first election after he or she registers or, if identification is not provided, he or she may cast a provisional ballot. However, the person may vote by mail (absentee) if identification is provided to the county election officer.

Statewide Voter Registration System and Online Voter Registration

In October 2002, the Help America Vote Act (HAVA) was passed by the U.S. Congress and signed into law by President George W. Bush. This Act requires states, among other things, to implement statewide voter registration lists. Pursuant to NRS 293.675, the Office of the Secretary of State is charged with establishing and maintaining this statewide list, which may be maintained on the Internet, in consultation with each county and city clerk and voter registrar. The Secretary of State's office and Nevada's county election officials have implemented this statewide system, which serves as a uniform, centralized, and computerized voter registration list.

Under this system, a person can register to vote anywhere in Nevada, and registration information is available on election department computers in all 17 counties. The centralized database is linked to the DMV and the Social Security Administration to help verify the accuracy of information contained in the voter registration application. The State Registrar of Vital Statistics also provides death record information to the Office of the Secretary of State to assist in maintaining the statewide voter registration list.

Online voter registration is available statewide through the Secretary of State's website at <https://nvsos.gov/sosvoterservices/Registration/step1.aspx>.

Voter Registration Figures

According to statistics compiled by the Secretary of State's office, as of March 2016, a total of **1,504,088** people were registered to vote in Nevada. This includes **610,094** Democrats and **509,087** Republicans. In addition, **291,789** people were registered as Nonpartisan, **69,507** as Independent American, **12,118** as Libertarian, and **11,493** as Other. Pursuant to NRS 293.530, registered voters shall be designated as "inactive" in Nevada if they do not respond to an address verification card sent by their local clerk or registrar. As of March 2016, among the registered voters above, **249,538** voters are currently considered "inactive." If an inactive voter fails to vote in an election before the polls close on the day of the second general election after the mailing of the verification card, their voter registration may be cancelled.

Legislative Declaration of Voters' Rights
NRS 293.2546

The Help America Vote Act of 2002 required, among other things, states to post at each polling location a list of voter instructions specifying certain guarantees afforded to the voter. These include the right for each voter to receive a sample ballot, having the ability to vote using a provisional ballot, and the right to a uniform, statewide standard for counting and recounting all votes accurately. Specifically, Title 52, section 21082 of the *United States Code* requires that “general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated” must be posted at every polling place.

In accordance with HAVA, states across the country developed and adopted these polling place posting requirements in their own statutes, often referring to them as a “Voters’ Bill of Rights.” Nevada adopted a voters’ bill of rights as well in Assembly Bill 235 (Chapter 132, *Statutes of Nevada*) of the 2003 Legislative Session. Many of the guarantees set forth in A.B. 235 in 2003 were long-standing provisions already in Nevada law. The measure was approved unanimously in both houses and is codified in NRS 293.2546, which states:

The Legislature hereby declares that each voter has the right:

1. To receive and cast a ballot that: (a) Is written in a format that allows the clear identification of candidates; and (b) Accurately records the voter’s preference in the selection of candidates.
2. To have questions concerning voting procedures answered and to have an explanation of the procedures for voting posted in a conspicuous place at the polling place.
3. To vote without being intimidated, threatened or coerced.
4. To vote on election day if the voter is waiting in line at his or her polling place to vote before 7 p.m. and the voter has not already cast a vote in that election.
5. To return a spoiled ballot and is entitled to receive another ballot in its place.
6. To request assistance in voting, if necessary.
7. To a sample ballot which is accurate, informative and delivered in a timely manner.
8. To receive instruction in the use of the equipment for voting during early voting or on election day.
9. To have nondiscriminatory equal access to the elections system, including, without limitation, a voter who is elderly, disabled, a member of a minority group, employed by the military or a citizen who is overseas.
10. To have a uniform, statewide standard for counting and recounting all votes accurately.
11. To have complaints about elections and election contests resolved fairly, accurately and efficiently.

PRIMARY AND GENERAL ELECTIONS, EARLY VOTING, AND VOTER TURNOUT

Primary Elections

Nevada operates under a “closed primary” election system. In a fully closed primary election system, voters must register with a political party in advance of the primary election. Members of political parties can vote only for candidates on their party’s ballot and any nonpartisan offices appearing on the primary election ballot. The party’s election is closed to members of other political parties. Independent candidates and candidates representing minor political parties only appear on the general election ballot. Nonpartisan offices include city and town officers, county sheriffs, the judiciary, members of boards of trustees for public hospitals, members of the State Board of Education, members of the Board of Regents of the University of Nevada, and school board members.

For over 80 years (with the exception of 1954), primary elections had been held on the first Tuesday of September in each even-numbered year. In 2006 and 2008, primary elections in Nevada were held on the twelfth Tuesday before the general election. The 2005 Legislature approved this change because local election officials were finding it increasingly difficult to meet an ever-growing list of important federal and State election deadlines relating to ballot preparation and voting by overseas military personnel. In 2009, for these same reasons and to shorten the primary election season and improve voter turnout, the Legislature voted to move primary elections to the second Tuesday in June. Pertinent filing and reporting deadlines were adjusted accordingly. For 2016, the primary election will be held on June 14.

General Elections

General elections at the State and county level, according to NRS 293.12755, are held on the first Tuesday after the first Monday of November in an even-numbered year. Polls for all primary and general elections must open at 7 a.m. and close at 7 p.m. For 2016, the general election will be held on November 8.

Local Elections

Some incorporated cities in Nevada hold municipal elections in the spring of each odd-numbered year. The cities of Carlin, Elko, Reno, Sparks, and Wells, however, have amended their city charters and ordinances to coincide their elections with the State and county election schedule. The consolidated municipality of Carson City also follows the State and county election cycle, and a number of “general law” cities (those operating under Chapter 268 [“Powers and Duties Common to Cities and Towns Incorporated Under General or Special Laws”] of NRS) have amended their city ordinances to hold general elections in concert with the State and county election cycle.

In 2011, the Legislature approved A.B. 132 (Chapter 218, *Statutes of Nevada*), which allows certain charter cities to move their elections to the statewide cycle by ordinance and to shorten future terms of office as necessary to accomplish the switch. Currently, unless following the State and county election cycle, primary city elections are held on the first Tuesday after the first Monday in April (NRS 293C.175), and general elections for cities are held on the second Tuesday after the first Monday in June (NRS 293C.140).

Early Voting

Since its inception in 1993, early voting by personal appearance in Nevada has become quite popular. In both the 2014 Primary and General Elections, over 48 percent of all votes were cast early. The two-week period for early voting by personal appearance begins on the third Saturday preceding a primary or general election and extends through the Friday before election day (Sundays and holidays excepted). The county election officer has the option to offer early voting on Sundays and holidays within the early voting period. The locations, dates, and hours of early voting must be published in a newspaper of general circulation during the week before the early voting period and at least once each week during the period.

All voters may cast their ballots during this 14-day period before election day at one of many early voting sites. Typically, counties and cities establish a permanent early voting site within the election office. Larger counties and cities often set up additional temporary early voting locations in

community centers, libraries, shopping malls, and supermarkets. Hours of operation for these satellite locations are set by each individual county. County and city clerks must adopt rules or regulations setting forth the criteria for selecting permanent and temporary early voting polling places and inform the local governing body of the location of each polling place for early voting.

Statewide Voter Turnout

Historically, voter turnout is significantly greater in presidential election years. In 2014, which was a non-presidential election year, general election voter turnout fell to 45.56 percent of active voters from 80.79 percent in 2012. However, voter turnout at the 2014 Primary Election was 19.27 percent of active registered voters, compared to 18.87 percent in 2012.

ABSENTEE BALLOTS AND ACCOMMODATIONS FOR PERSONS WITH DISABILITIES OR WHO ARE ELDERLY

Absentee Ballots Generally

Like other states, Nevada offers voting by absentee ballot. Any registered voter who provides sufficient written notice may request an absentee ballot any time before 5 p.m. on the seventh day preceding any election. Nevada does not require the applicant to provide a reason for requesting an absentee ballot, and a registered voter living overseas may request an absentee ballot electronically.

Absentee Ballots for Persons With Disabilities or Who Are Elderly

Nevada law makes numerous accommodations for persons with disabilities or who are elderly to receive absentee ballots, including an option to request a late absentee ballot if a voter falls ill or becomes disabled and is unable to go to the polls on election day. Accommodations also are made for a registered voter with a physical disability who is unable to mark or sign a ballot or use a voting device without assistance. Such a voter may submit a written statement requesting that he or she receive an absentee ballot for all elections occurring in the following year (NRS 293.3165). The statement must designate the person who will assist the registered voter in marking and signing the absent ballot on behalf of the registered voter.

Accommodations at Polling Places for Persons With Disabilities or Who Are Elderly

Polling places in Nevada must be completely accessible to persons with disabilities or who are elderly. Nevada law provides that the county clerk or voter registrar must establish at least one polling place for a precinct in any residential development exclusively for seniors, provided that: (1) more than 100 residents of the development are registered to vote; (2) there is a common area which is adequate for a polling place; and (3) the owner of the development consents to establishing a polling place on the property. While separate polling places may be established in senior communities, it should be noted that all polling places must have at least one voting booth designated for use by a voter who is elderly or a voter with a disability. A voter who is elderly or has a disability must be able to vote with the same privacy as any other voter.

In 2015, the Legislature adopted two measures that addressed accommodations and assistance at the polling place for the elderly or persons with a disability. First, S.B. 248 (Chapter 242, *Statutes of Nevada*) revised existing provisions allowing assistance in casting a ballot to a person with a disability or a person with an inability to read or write English. Previously, the law required the voter to sign a

statement under penalty of perjury that he or she required such assistance. The bill removed the discretion of an election board to require a person with a disability or an inability to read or write English to sign such a statement. Instead, under S.B. 248, a person is entitled to assistance in casting a ballot, if such a need is apparent or known to the election board at the polling place, and may request assistance in voting in any manner.

Currently, voters are required to sign an electronic or paper pollbook. The Legislature recognizes that signatures can change over time, even due to a physical disability. If a voter's signature does not match the signature in the pollbook or if the voter cannot sign his or her name due to physical limitations, A.B. 462 (Chapter 509, *Statutes of Nevada 2015*) required the voter to provide personal data verifying his or her identity or provide proof of identification as set forth in Nevada's existing voter registration provisions. If the voter's signature has changed in comparison to the application to register to vote, the bill also required a voter to update his or her signature using a form prescribed by the Secretary of State.

At each polling place, the county clerk or voter registrar is encouraged to post instructions for voting printed in at least 12-point type in a visible location and to provide ballots in alternative audio and visual formats. Finally, any registered voter who is unable, by reason of a physical disability or an inability to read or write English, to mark a ballot or cast a vote without assistance is entitled to assistance from a consenting person of his or her own choice. The voter may not, however, utilize the assistance of his or her employer or an agent of his or her labor organization.

FILING OFFICERS AND DEADLINES FOR DECLARING CANDIDACY

Filing Officers

The Secretary of State is the filing officer for statewide offices and any office that is elected from districts comprised of more than one county. The county election official is the filing officer for offices elected from districts comprising only one county or part of one county. The city clerk is the filing officer for municipal elections.

Candidacy Deadlines

The first day of candidate filing in statewide and county elections, excluding judicial offices other than municipal judge, begins on the first Monday in March and ends at 5 p.m. on the second Friday after the first Monday in March. For 2016, the candidate filing period runs from March 7 through March 18. The candidate filing period for city elections extends from 70 days before the primary city election through 5 p.m. on the 60th day before the primary city election. A candidate for State or county office may withdraw his or her candidacy in writing within seven days (excluding weekends and holidays) after the last day for filing. Candidates for city offices may withdraw from the election within two days after the last day to file.

All candidates must file a declaration of candidacy form. Candidates for the office of State Senator or State Assembly Member also must complete a "declaration of residency," which requires the candidate to list his or her residences since November 1 of the year preceding the election.

CAMPAIGN PRACTICES

The activities and behavior of political candidates are governed primarily in Chapter 294A (“Campaign Practices”) of NRS. Candidates are expected to conduct campaign activities in a professional and ethical manner and are encouraged to sign and file the “Code of Fair Campaign Practices.” In addition to requiring reporting of campaign contributions and expenses, Nevada’s campaign finance laws provide guidance on the proper use of campaign funds and set forth procedures for appropriate campaign activity.

Code of Fair Campaign Practices

There are basic principles of decency, honesty and fair play which every candidate for public office in the State of Nevada has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, the voters may exercise their constitutional right to vote for the candidate of their choice and that the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

1. I will conduct my campaign openly and publicly and limit attacks against my opponent to legitimate challenges to my opponent’s voting record or qualifications for office.
2. I will not use character defamation or other false attacks on a candidate’s personal or family life.
3. I will not use campaign material which misrepresents, distorts or otherwise falsifies the facts, nor will I use malicious or unfounded accusations which are intended to create or exploit doubts, without justification, about the personal integrity of my opposition.
4. I will not condone any dishonest or unethical practice which undermines the American system of free elections or impedes or prevents the full and free expression of the will of the voters.

I, the undersigned, as a candidate for election to public office in the State of Nevada, hereby voluntarily pledge myself to conduct my campaign in accordance with the principles and practices set forth in this Code.

Date

Signature of Candidate

Campaign Accounts

Every candidate shall open and maintain a separate account in a financial institution for the deposit of any campaign contributions, within one week of receiving a minimum of \$100. The candidate shall not commingle the money in the account with money collected for other purposes. It is unlawful for a candidate to spend money received as a campaign contribution for his or her personal use.

Candidates and public officers may also establish a legal defense fund, which is an account established to defray attorney’s fees or other legal costs incurred by the candidate or public officer if he or she becomes subject to a civil, criminal, or administrative claim arising from a campaign, the electoral process, or the performance of his or her official duties. The candidate or public officer must notify the Secretary of State of the creation of such a fund and report any contributions received or expenditures made from the fund.

Campaign Contribution Limits

A person shall not make a contribution to a candidate for any office, except a federal office, in an amount that exceeds \$5,000 for the primary election and \$5,000 for the general election. There are no constitutional or statutory limits on contributions made to groups such as political parties, committees sponsored by political parties, or committees for political action.

Every candidate who is defeated at a primary or general election, withdraws his or her candidacy, is removed from the ballot by court order, or otherwise is not elected must dispose of campaign contributions that were not committed previously for expenditure. Options for such disposition include returning the money to contributor, contributing the money to other political campaigns or political parties, or donating the money to any tax-exempt or nonprofit entity.

In 2015, the Legislature approved S.B. 293 (Chapter 249, *Statutes of Nevada*), which placed a limit on how long a person, including a former public officer who qualifies as a candidate by receiving one or more contributions in excess of \$100, may essentially hold on to a campaign contribution before disposing of it. Specifically, the candidate or public officer must dispose of all contributions that have not been spent or committed for expenditure within four years after receipt of the contribution, if he or she does not file a declaration or acceptance of candidacy or appear on the ballot at any election. The bill also provided that a former public officer who has any unspent campaign contributions as of October 1, 2015, shall, on or before September 30, 2017: (1) file a declaration or acceptance of candidacy; (2) appear on a ballot at any election; or (3) dispose of his or her unspent contributions as set forth in Nevada law. The bill specified that such former public officers are subject to campaign finance reporting requirements for as long as they have unspent campaign contributions.

Campaign Contributions and Expenditures

In Nevada, all candidates for office at a primary or general election are required to file a number of Campaign Contributions and Expenses (C&E) Reports throughout the election cycle. Five reports must be filed during the election cycle, even if there are no contributions or expenses or the candidate withdraws or ends the campaign, is defeated in the general or primary election, or is removed from the ballot for any reason. Every candidate must report contributions and expenses in excess of \$100, including multiple contributions from a single contributor that cumulatively exceed \$100. The aggregate total must be reported for contributions less than \$100, but contributions and expenses less than \$100 need not be itemized.

Reports also must be filed showing how any remaining funds were disposed of or used. State law restricts the manner in which unspent contributions may be disposed. The reports must be filed with the filing officer with whom the candidate filed his or her declaration of candidacy or acceptance of candidacy. Beginning in 2012, except under certain circumstances, candidates are required to file Campaign C&E Reports online with the Secretary of State using the AURORA Campaign Finance Disclosure system (http://nvsos.gov/SOSCandidateServices/AnonymousAccess/CEFDSearchUU/Search.aspx#individual_search). A candidate who submits an affidavit stating that he or she cannot submit the filing via the Internet may do so in person, via fax, or by mail.

The due dates for Campaign C&E Reports for the 2016 election cycle are:

2016 ELECTION CYCLE-C&E REPORTS	
Annual Report:	Due January 15, 2016
Report No. 1:	Due May 24, 2016
Report No. 2:	Due June 10, 2016
Report No. 3:	Due October 18, 2016
Report No. 4:	Due November 4, 2016
Report No. 5:	Due January 15, 2017
Annual Report:	Due January 15, 2017

Source: *Campaign Guide 2016*, prepared by Nevada’s Office of the Secretary of State.

The Secretary of State may impose civil penalties ranging from \$25 to \$100 per day up to a maximum of \$5,000 on any candidate who fails to file a Campaign C&E Report or who files the report late.

Contributions in Excess of \$10,000 Report

Every candidate who receives contributions in excess of \$10,000 in any year before the year of an election is required to file a Campaign C&E Report for that year and every year thereafter up to the election. This “off-year” report must be filed with the appropriate filing officer on or before January 15 of the year immediately after the year for which the report is made. The report must include all contributions received and expenditures made in that year.

Restrictions on Receipt of Campaign Contributions Prior to Legislative Session

A legislative caucus, legislator, Governor, Governor-Elect, Lieutenant Governor, and Lieutenant Governor-Elect may not receive or solicit a contribution during the period beginning 30 days before and ending 30 days after a regular session of the Legislature. If a special session is called, none of the above persons may receive or solicit a campaign contribution during the period beginning the day after the Governor issues a proclamation calling for a special session or the Secretary of State receives petitions from Legislature calling itself into special session and ending 15 days after the final adjournment of a special session.

Financial Disclosure Statements

Nevada law requires the filing of financial disclosure statements with information on general income sources, debt, business ventures, real estate, and contributions of certain gifts. The following individuals must file such statements: (1) every candidate for public office who, if elected, is entitled to receive compensation of \$6,000 or more annually for serving in the office; (2) every elected public officer; and (3) every appointed public officer who is entitled to receive compensation of \$6,000 or more annually for serving in the office. According to NRS 281.561(3), a person elected as a supervisor of a conservation district pursuant to NRS 548.285, does not have to file a financial disclosure statement.

Financial disclosure statements for all candidates for public office must be filed with the Secretary of State no later than the tenth day after the last day to qualify for office (ten days after the close of candidate filing). Elected public officers must file the statement on or before January 15 of each year of their term, and appointed public officers must file within 30 days of their appointment and annually

thereafter on or before January 15. An elected or appointed public officer who leaves office must file the statement on January 15 of the year immediately following his or her leaving the office. Civil penalties imposed for late filing or a failure to file range from \$25 to \$2,000.

The Office of the Secretary of State issues a *Financial Disclosure Statement Guide* containing general information for candidates and public officers, setting forth applicable deadlines for filing the financial disclosure statement, detailing what items must be disclosed and reported, and providing instructions for filing the statement electronically. This guide is available at: <http://nvsos.gov/Modules/ShowDocument.aspx?documentid=4082>.

Campaign Guide

Every election cycle, the Office of the Secretary of State issues a *Campaign Guide* containing general information for candidates, setting forth applicable deadlines, addressing the conduct of a campaign, and explaining campaign finance requirements. The *Campaign Guide 2016* is available at: <http://nvsos.gov/Modules/ShowDocument.aspx?documentid=4084>.

RECALL OF PUBLIC OFFICERS

Recall is a procedure that allows citizens to remove and replace a public official before the end of a term of office. Historically, recall has been used most frequently at the local level. By some estimates, three-fourths of recall elections nationwide are at the city council or school board level. Recall differs from impeachment in that it is a political device, while impeachment is a legal process. The recall started as a local phenomenon, in Los Angeles, California, in 1903. Provisions addressing the recall of public officers in Nevada are set forth in Article 2, Section 9 of the *Nevada Constitution* and Chapter 306 (“Recall of Public Officers”) of NRS.

The Recall in Nevada

According to the National Conference of State Legislatures, Nevada is 1 of 19 states and the District of Columbia that authorizes the recall of statewide public officers.¹ Even more states have recall provisions for local elected officials. The State’s recall provisions were added to the *Nevada Constitution* in 1912 by a vote of the people after being proposed and approved by the Legislature during the 1909 and 1911 Sessions. Despite the increased use of recalls in the last several decades, the success rate remains generally low.

The Recall Process

The first step in the recall process is the filing of a “notice of intent” to recall a public officer with the same filing officer with whom the subject of the recall filed his or her declaration of candidacy. Once the notice of intent has been filed, a recall petition may be circulated for signatures. The petition must contain the signatures of at least 25 percent of the number of registered voters in the State, county, or district that the public officer represents. Only registered voters who actually voted in the election in

¹For more information regarding recall, please refer to the National Conference of State Legislatures (www.ncsl.org) and <https://ballotpedia.org/Recall>.

which the subject of the recall was elected may sign a petition to recall.² The signatures are examined and verified to determine the sufficiency of the petition. Once the signatures have been verified, the results of the examination are forwarded to the Secretary of State who then finds the petition either sufficient or insufficient.

Between 10 and 20 days after the Secretary of State gives notice that the petition is sufficient, the filing officer must issue a call (an announcement of the date) for the special recall election. The recall election must take place within 30 days after the filing officer issues the call.

A ballot for the recall of a public officer may vary in form depending on several circumstances. If the public officer who is the subject of the recall chooses not to resign and there are no other candidates for the recalled office, the words “For Recall” and “Against Recall” must be placed on the ballot as voting choices. If there are other candidates to appear on the ballot, the names of the public officer subject to the recall and any other authorized candidate must appear.

A person may be nominated as a candidate for the office involved in the recall through a petition process. This petition must be signed by at least 25 percent of the registered voters who actually voted for the office in question at the last general election.

The Office of the Secretary of State issues a *Recall Guide* every election cycle. The guide is available online at <http://nvsos.gov/Modules/ShowDocument.aspx?documentid=3790>.

HISTORY OF INITIATIVE AND REFERENDUM IN THE U.S.

The initiative and referendum (I&R) process was popularized during the late 1890s and early 1900s when the Populist Party was gaining influence on the American political scene. Its platform included women’s suffrage, direct election of U.S. Senators, and the use of I&R. The initiative is a procedure whereby citizens, through a petition process, place measures on the ballot proposing changes or additions to laws or state constitutions. A referendum typically allows the citizens to register, through a vote of the people, their support or disapproval of a current law or statute and may be either advisory or binding in nature.

In 1897, Nebraska became the first state to allow I&R for city elections and, in 1898, South Dakota became the first state to adopt a statewide I&R. Nevada adopted its popular referendum at the 1904 General Election; however, it was not until 1912 that Nevada adopted its statewide initiative process.

Interestingly, most of the states that have adopted I&R are west of the Mississippi River. Some theorize that the expansion of I&R in the West fits more with Westerners’ independent, populist belief system. For the most part, I&R operated quietly in the background of state politics for much of the twentieth century. However, during the last three decades, it has come back into vogue.

²In *Strickland v. Waymire*, 126 Nev. 230, 240 (2010), the Nevada Supreme Court held that Section 9 of Article 2 of the *Nevada Constitution* provides that, “[w]hile all registered voters can vote at a special recall election, only voters who voted at the relevant baseline election can qualify a recall petition” by signing a petition for the recall.

Nationwide, the popularity of initiative and referendum appears to have peaked in the 1990s; however, a large number of initiative proposals still qualify for the ballot and a significant amount of money is spent on the process every election cycle. According to the Initiative and Referendum Institute, since the inception of the initiative in 1898, there have been over 2,400 initiative measures on ballots in the 24 states that allow initiatives and referenda. Nearly half of these initiative measures (about 1,100) appeared on the ballot in the last 35 years.

THE INITIATIVE AND REFERENDUM PROCESS IN NEVADA

There are two types of initiatives—direct and indirect. In Nevada, a direct initiative seeks to amend the *Nevada Constitution*, while an indirect initiative seeks to amend an existing statute. The direct initiative involves a petition process which, if successful, goes directly on the ballot at the next general election. The indirect initiative, however, involves the consideration and input of the Legislature. In other words, an initiative proposal to change Nevada law does not go directly to the ballot. In the indirect initiative process, a proposed initiative (if the petition has enough qualified signatures) is first referred to the Legislature.

In Nevada, statewide I&R petitions may address only one subject and matters necessarily connected with that subject. An explanation of the effect of the petition also must appear on each signature page of the petition. Nevada law further requires the Secretary of State to post a copy of the initiative or referendum petition, the description of the effect of the petition proposal, and the fiscal note on the Secretary’s website. Article 19, Section 2 of the *Nevada Constitution* and provisions in Chapter 295 (“Certain State and Local Ballot Questions”) of NRS also provide for I&R at the county and city level, although the filing, signature requirements, approval process, and time frames vary from the statewide I&R process. Finally, every election cycle, the Office of the Secretary of State publishes the *Initiative & Referendum Guide*, which is available online at <http://nvsos.gov/Modules/ShowDocument.aspx?documentid=4080>.

Constitutional Amendments

An initiative petition to amend the *Nevada Constitution* must be signed by a number of registered voters equal to 10 percent or more of the number of voters who voted at the last statewide general election. This number (55,234 for 2016) must be divided equally (13,809) among Nevada’s four “petition districts.” Before any initiative petition to amend the *Nevada Constitution* may be circulated for signatures, a copy of the petition, including a description 200 words or less of the effect of the petition, must be filed with the Secretary of State no earlier than September 1 of the year prior to the election. The petition may then be circulated for signatures until the third Tuesday in June of the following year (the election year), at which time it must be submitted to the appropriate county election offices for signature verification. For 2016, the last day for petitioners to submit a constitutional initiative to the county election office is June 21. Upon completion of the signature verification process, all petitions must be filed by the county election officer with the Secretary of State no later than 90 days before the general election (August 10, 2016). If it is determined that the petition contains a sufficient number of valid signatures, the initiative question will appear on the general election ballot. An initiative petition to amend the *Nevada Constitution* must be approved in identical form at two successive elections before becoming law.

Over the years, voters have considered numerous initiative proposals to amend the *Nevada Constitution*. Key proposals that have been approved address a number of different topics, including eminent domain, taxation, term limits, the definition of marriage, medical marijuana, and the minimum wage.

Enacting or Amending a State Statute

An initiative petition also may be used to enact a new statute or to amend an existing one. The same number of registered voters that is required to sign a constitutional initiative also is required to sign a statutory initiative. Proponents must first file a copy of the petition, including a description 200 words or less of the effect of the petition, with the Secretary of State no earlier than January 1 of the year prior to the next legislative session. The petition may then be circulated for signatures until the second Tuesday in November, at which time it must be submitted to the county election offices for signature verification. Upon completion of the signature verification, all petitions to amend or create a statute must be filed by the counties with the Secretary of State no later than 30 days before the start of the next legislative session.

Signature Requirements for Statewide Initiative and Referendum Petitions	
Total Voter Turnout in the 2014 General Election	552,326
Ten Percent of Total Voter Turnout in the 2014 General Election	55,234
Number of Signatures Required to be Gathered From <u>Each</u> of Nevada’s Four Petition Districts	13,809

Source: *Initiative & Referendum Guide*, issued by Barbara K. Cegavske, Secretary of State, State of Nevada; Article 19, Sections 1 and 2 of the *Nevada Constitution*; NRS 293.127563(2) and 295.012.

If the petition contains a sufficient number of valid signatures, the Secretary of State shall transmit the initiative proposal to the Legislature as soon as it convenes. The Legislature must either enact or reject the petition without amendment within the first 40 days of the legislative session. Depending on the Legislature’s action, the proponents may continue the process by placing it on the ballot. If the Legislature defeats or fails to act on the initiative proposal within the first 40 days, it is automatically placed on the ballot at the next general election for consideration by the voters. Some states, including Nevada, allow their legislatures to place an alternative measure (regarding the same subject) on the ballot to be considered along with an initiative question.

If the Legislature enacts the statute proposed in the petition and it is approved by the Governor, it becomes law. It should be noted that a statutory initiative approved by the voters cannot be amended, annulled, or repealed by the Legislature within three years from the date it takes effect.

Geographic Distribution Requirement for Petition Signatures

Until the early 2000s, Nevada was one of ten states that had a “geographic distribution” signature requirement to qualify petitions for the ballot, whereby signatures had to be gathered in 75 percent (13 out of 17) of Nevada’s counties. In a challenge to this provision, a federal judge agreed with plaintiffs who argued that requiring the collection of signatures in different areas of the State gave added weight or influence to voters’ signatures in rural areas and diminished the relative weight of voters’ signatures in urban centers.

The current statewide petition signature requirement was set forth in S.B. 212 (Chapter 460, *Statutes of Nevada*) of the 2009 Legislative Session. The bill required the Legislature to create petition districts from which signatures for a petition for initiative must be gathered. The bill defined “petition district” to mean congressional district until July 1, 2011, at which time the Legislature must have established petition districts for the period after that date. In 2011, the Legislature confirmed, with the passage of S.B. 133 (Chapter 320, *Statutes of Nevada*), that it wanted to continue using congressional districts as petition districts. Today, an initiative petition must be signed by a number of registered voters equal to at least 10 percent of the voters who voted in the last preceding general election divided equally among Nevada’s congressional districts.³

The Referendum in Nevada

A referendum typically allows citizens to register, by a vote of the people, their support or disapproval of a law or statute. In some states, the referendum is advisory in nature and does not create or abolish any laws. However, in Nevada, a referendum is binding and serves either to “set in stone” a particular statute (except by another vote of the people) or to render a law or resolution void.

The first day a statewide referendum can be filed is August 1 in the year prior to the next general election. In order to qualify for the ballot, a statewide referendum must be signed by a number of registered voters equal to 10 percent or more of the number of voters who voted at the last statewide general election divided equally among the petition districts. The petition may be circulated for signatures until the third Tuesday in June of the following year, at which time it must be submitted to the appropriate county election offices for signature verification. If there are enough valid signatures, the referendum to approve or disapprove a current State law shall be placed on the general election ballot.

Expenditure Reporting for Ballot Measures

The Nevada Legislature frequently approves legislation intended to help address another concern regarding initiatives—identifying who pays for campaigns supporting or opposing them. In 2011, the Legislature approved A.B. 81 (Chapter 501, *Statutes of Nevada*), which required persons, committees for political action, and political parties that expend more than \$100 on public communication advocating for or against a question or candidate to disclose their identity on the communication itself, be it a mailer, billboard, radio or television commercial, or other form of public communication.

Opinions Relating to Initiative and Referendum

Opinions concerning the I&R process vary widely. While many view the I&R process as a fair way for citizens to directly influence the lawmaking process, others believe that I&R diminishes the political strength and traditional power of legislative bodies. Others observe that I&R has become an avenue for well-financed special interests to pursue their agendas in State and local politics. Advocates for I&R argue that the use of the initiative is positive, and citizens are using it as a tool to implement new laws and reforms that the Legislature is unable or unwilling to enact. Critics of the I&R process counter that the process asks voters to make simple “yes” or “no” decisions about

³On March 14, 2012, the Ninth Circuit Court of Appeals affirmed a lower court’s ruling that Nevada’s geographic distribution signature requirement does not violate the Equal Protection Clause or the First Amendment of the *U.S. Constitution*.

complex issues without the benefit of consideration of competing needs and other impacts by an elected body or expert analysis.

The I&R process continues to generate activity at the legislative level as states address issues such as the: (1) prevention of fraud in the signature gathering process; (2) disclosure of information about who is behind initiative campaigns; and (3) addition of flexibility to the process to accommodate more debate, deliberation, and compromise.

ACTIONS OF THE 2015 LEGISLATURE

During the 2015 Legislative Session, the Senate and Assembly Committees on Legislative Operations and Elections considered legislation relating to elections, campaign practices, and initiative and referendum. Some of these approved measures that have not been referenced previously in this report are described below.

Regarding election administration and procedures, the 2015 Legislature passed the following provisions:

- Assembly Bill 462 (Chapter 509, *Statutes of Nevada*) was a “housekeeping” bill requested by Nevada’s county clerks and voter registrars that addressed small, yet sometimes very important, election administration matters. The measure made modifications to provisions relating to ballot printing, maintaining a pollbook, the appointment of election boards, and precinct size.
- Senate Bill 499 (Chapter 525, *Statutes of Nevada*) extended the deadlines by which petitions from minor political parties and independent candidates must be filed and shortened the deadlines by which the county clerks must verify the signatures on those petitions. The dates by which challenges to the qualification of a minor party to place names of candidates on the ballot and for challenges to the candidacy of an independent candidate were also revised. The bill further provided that the district court in which the challenge is filed must give priority to the proceedings. Finally, the bill changed, from the fourth Friday in June to the fourth Friday in July, the deadline for filling vacancies in nonpartisan offices or nominations for nonpartisan offices and nominations for certain partisan offices.
- Senate Bill 5 (Chapter 295, *Statutes of Nevada*) and S.B. 499 changed the manner in which candidates are nominated for placement on the general election ballot. For major political party candidates, S.B. 499 simplified existing law to provide that if a major political party has two or more candidates for a particular office, the person who receives the highest number of votes at the primary election must be declared the nominee to the general election. Senate Bill 5 set forth this same process for candidates in a judicial primary election. This is sometimes called the “50 plus 1” provision that some municipal elections already use; except in this instance, the one major party nominee appears on the general election ballot. Meanwhile, S.B. 5 addressed the nomination of candidates for nonpartisan office by providing a “50 plus 1” provision for nonpartisan races. The distinction between S.B. 499 and S.B. 5 is that the nonpartisan candidate for any office other than a judicial office can be declared the winner at the primary election.

- Assembly Bill 94 (Chapter 454, *Statutes of Nevada*), as well as A.B. 462, authorized each county and city clerk to establish a system to distribute sample ballots by electronic means to each registered voter who chooses to receive a sample ballot in this manner. The system may include e-mail or electronic access through a website. The county election officials and the Legislature are very concerned about maintaining the confidentiality of voters' e-mail addresses. Therefore, the measures declared that an e-mail address provided by a registered voter is confidential and not a public record and may not be disclosed by the county or city clerk or voter registrar. The e-mail address may only be used to distribute a sample ballot electronically and to communicate with the voter regarding the voting process.
- Assembly Bill 23 (Chapter 336, *Statutes of Nevada*) revised the date of certain general city elections from the first Tuesday after the first Monday in June to the second Tuesday after the first Monday in June and made conforming changes to the charters of Boulder City, Caliente, Henderson, Las Vegas, North Las Vegas, and Yerington. The bill also revised a provision in current law to allow only voters who voted at the relevant preceding election to sign a recall petition.

The Legislature approved the following measures relating to campaign practices:

- Assembly Bill 63 (Chapter 105, *Statutes of Nevada*) clarified that if a candidate for elective office ends a campaign without officially withdrawing his or her candidacy and subsequently is elected to office, the candidate must resume filing campaign contribution and expenditure reports starting with the next report due after the election to office.
- Assembly Bill 23, in addition to making changes relating to election administration, provided that a committee for the recall of a public officer must file contribution and expenditure reports, regardless of the outcome of the efforts to circulate the recall petition. The measure also incorporated the definition of the term "independent expenditure" into the definition of "committee for political action" as it relates to expenditures made by an organization or entity whose primary purpose is not to affect the outcome of any election or ballot question. Finally, contribution limits currently tied to the dates for convening and adjourning the legislative session were changed to calendar years.
- Senate Bill 104 (Chapter 110, *Statutes of Nevada*) provided an exception to the requirement that political advertisements disclose the name of the person or entity who paid for such advertising and include a statement indicating that the advertisement was approved by a candidate. This exception applies to any statement or communication appearing on any article of clothing, regardless of its cost, and on certain other forms of advertising including buttons, pens, candy, jar openers, and balloons having a retail value of less than \$5 each.

ADDITIONAL RESOURCES

The Secretary of State's website includes an "Election Center" page (<http://nvsos.gov/index.aspx?page=3>) with information for voters and candidates, as well as ballot questions (past and present) and political party and committee information. The website also contains statistics on voter turnout and registration and a searchable database for Campaign C&E Reports.

Information on statewide ballot questions or past initiatives and referenda, as well as lists of candidates, and important election dates is available on the Research Division’s “Vote Nevada” webpage (<https://www.leg.state.nv.us/Division/Research/VoteNV/index.cfm>).

KEY ELECTION OFFICIALS IN NEVADA

The following table contains the primary officials responsible for election administration in this State as of April 2016:

ELECTION ADMINISTRATION Primary Officials	
<p>Barbara K. Cegavske Secretary of State 101 North Carson Street, Suite 3 Carson City, Nevada 89701 Telephone: (775) 684-7195 E-mail: sosmail@sos.nv.gov Website: http://nvsos.gov/</p>	<p>Wayne Thorley Deputy Secretary of State for Elections 101 North Carson Street, Suite 3 Carson City, Nevada 89701 Telephone: (775) 684-7195 E-mail: nvelect@sos.nv.gov Website: http://nvsos.gov/</p>
<p>Carson City Susan Merriwether, Clerk-Recorder 885 East Musser Street, Suite 1028 Carson City, Nevada 89701 Telephone: (775) 887-2260 Fax: (775) 887-2146 E-mail: recorder@carson.org Website: http://www.carson.org</p>	<p>Churchill County Kelly G. Helton, Clerk/Treasurer 155 North Taylor Street, Suite 110 Fallon, Nevada 89406 Telephone: (775) 423-6028 Fax: (775) 423-7069 E-mail: clerktreas@churchillcounty.org Website: http://www.churchillcounty.org</p>
<p>Clark County Joseph P. Gloria, Registrar of Voters Clark County Election Center 965 Trade Drive, Suite A North Las Vegas, Nevada 89030 Mailing Address: P.O. Box 3909 Las Vegas, NV 89127 Telephone: (702) 455-2784 Fax: (702) 455-2793 E-mail: jpg@clarkcountynv.gov elinfo@clarkcountynv.gov Website: http://www.clarkcountynv.gov/election</p>	<p>Douglas County Kathy Lewis, C.P.A., Clerk-Treasurer 1616 Eighth Street Old Courthouse, Second Floor P.O. Box 218 Minden, Nevada 89423 Telephone: (775) 782-9014 Fax: (775) 782-9016 E-mail: Klewis@douglas.nv.us Website: https://ctr.douglasnv.us</p>
<p>Elko County Carol Fosmo, Clerk 550 Court Street, Third Floor Elko, Nevada 89801 Telephone: (775) 753-4600 Fax: (775) 753-4610 E-mail: cfosmo@elkocountynv.net Website: http://www.elkocountynv.net</p>	<p>Esmeralda County LaCinda (Cindy) Elgan, Clerk/Treasurer 233 Crook Avenue P.O. Box 547 Goldfield, Nevada 89013 Telephone: (775) 485-6309 Fax: (775) 485-6376 E-mail: celgan@citlink.net Website: http://www.accessesmeralda.com</p>

ELECTION ADMINISTRATION
Primary Officials
(continued)

<p>Eureka County Beverly (Bev) Conley, Clerk/Treasurer County Courthouse 10 Main Street P.O. Box 677 Eureka, Nevada 89316 Telephone: (775) 237-5262 Fax: (775) 237-6015 E-mail: bconley.ecct@eurekanv.org Website: http://co.eureka.nv.us</p>	<p>Humboldt County Tami Rae Spero, County Clerk 50 West Fifth Street Winnemucca, Nevada 89445 Telephone: (775) 623-6343 Fax: (775) 623-6309 E-mail: tami.spero@hcnv.us Website: http://www.hcnv.us</p>
<p>Lander County Sadie Sullivan, Clerk 315 South Humboldt Street Battle Mountain, Nevada 89820 Telephone: (775) 635-5738 Fax: (775) 635-0394 E-mail: landercountyclerk@gmail.com Website: http://www.landercountynv.org</p>	<p>Lincoln County Lisa C. Lloyd, County Clerk 181 North Main Street, Suite 201 P.O. Box 90 Pioche, Nevada 89043 Telephone: (775) 962-8077 Fax: (775) 962-5180 E-mail: llloyd@lincolnnv.com Website: http://www.lincolncountynv.org</p>
<p>Lyon County Nikki Bryan, Clerk/Treasurer 27 South Main Street Yerington, Nevada 89447 Telephone: (775) 463-6501 Fax: (775) 463-5305 E-mail: nbryan@lyon-county.org Website: http://www.lyon-county.org</p>	<p>Mineral County Christopher Nepper, Clerk/Treasurer 105 South A Street, Suite 1 P.O. Box 1450 Hawthorne, Nevada 89415 Telephone: (775) 945-2446 Fax: (775) 945-0706 E-mail: clerk-treasurer@mineralcountynv.org Website: http://www.mineralcountynv.us/</p>
<p>Nye County Sandra (Sam) L. Merlino, Clerk 1520 East Basin Avenue Pahrump, Nevada 89060 Telephone: (775) 751-7040 Fax: (775) 751-7047 E-mail: smerlino@co.nye.nv.us Website: http://www.nyecounty.net</p>	<p>Pershing County Lacey Donaldson, Clerk/Treasurer 398 Main Street P.O. Box 820 Lovelock, Nevada 89419 Telephone: (775) 273-2208 Fax: (775) 273-3015 E-mail: ldonaldson@pershingcounty.net Website: http://www.pershingcounty.net</p>

ELECTION ADMINISTRATION Primary Officials <i>(continued)</i>	
<p>Storey County Vanessa Stephens, Clerk-Treasurer 26 South B Street, Drawer D Virginia City, Nevada 89440 Telephone: (775) 847-0969 Fax: (775) 847-0921 E-mail: clerk@storeycounty.org Website: http://www.storeycounty.org/</p>	<p>Washoe County Luanne Cutler, Registrar of Voters 1001 East Ninth Street, Room A-135 Reno, Nevada 89512 Mailing Address: P.O. Box 11130 Reno, Nevada 89520 Telephone: (775) 328-3670 Fax: (775) 328-3747 E-mail: electionsdepartment@washoecounty.us Website: https://www.washoecounty.us/voters</p>
<p>White Pine County Nichole Baldwin, Clerk 801 Clark Street, Suite 4 Ely, Nevada 89301 Telephone: (775) 293-6509 Fax: (775) 289-2544 E-mail: wpclerk@whitepinecountynv.gov Website: http://www.whitepinecounty.net/</p>	

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