

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

**Eightieth Session
May 29, 2019**

The Senate Committee on Legislative Operations and Elections was called to order by Chair James Ohrenschall at 7:57 p.m. on Wednesday, May 29, 2019, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator James Ohrenschall, Chair
Senator Yvanna D. Cancela, Vice Chair
Senator Heidi Seevers Gansert
Senator Keith F. Pickard

COMMITTEE MEMBERS ABSENT:

Senator Marcia Washington (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Jason Frierson, Assembly District No. 8
Assemblywoman Dina Neal, Assembly District No. 7

STAFF MEMBERS PRESENT:

Michael Stewart, Committee Policy Analyst
Kevin Powers, Committee Counsel
Janae Johnson, Committee Secretary

OTHERS PRESENT:

Derek Armstrong, Deputy Director, Governor's Office of Economic Development
Melanie Young, Executive Director, Department of Taxation
Holly Welborn, American Civil Liberties Union of Nevada
Christine Saunders, Progressive Leadership Alliance of Nevada

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Gariety Pruitt, Nevada Conservation League Education Fund
Joe Gloria, Registrar of Voters, Clark County
Melody Judilla, Silver State Voices
Quentin Savwoir, Make It Work Nevada
Briana Escamilla, Human Rights Campaign
April Sanborn, Department of Motor Vehicles
Cecia Alvarado, State Director, Mi Familia Vota
Cynthia Yap, NextGen America
Michael Willoughby
Dan Santos, Asian Community Development Council
Deanna Spikula, Registrar of Voters, Washoe County
Kathy Lewis, Clerk/Treasurer, Douglas County
Aubrey Rowlett, Clerk/Recorder, Carson City
Wayne Thorley, Deputy Secretary for Elections, Office of the Secretary of State
Janine Hansen, Nevada Families for Freedom
Patti Jesinoski

CHAIR OHRENSCHALL:

I will open the meeting on Assembly Bill (A.B.) 452.

ASSEMBLY BILL 452 (1st Reprint): Revises provisions governing ethical standards for certain public officers, candidates and lobbyists. (BDR 17-1103)

KEVIN POWERS (Counsel):

The Legislative Counsel Bureau (LCB) Legal Division is a nonpartisan legal agency. We do not support or oppose any particular piece of legislation, viewpoint or policy. However, we do provide the Legislature with objective legal analysis and advice on issues of the law, including the interpretation and meaning of the legislation. Assembly Bill 452 deals with two acts that involve public officers, candidates and lobbyists. Those acts are from the Nevada Lobbying Disclosure Act of *Nevada Revised Statutes* (NRS) 218H and the Financial Disclosure Act in NRS 281. A brief history on the context of this bill: the Legislature passed S.B. No. 307 of the 78th Session which changed the way lobbyists interact with Legislators. Senate Bill No. 307 of the 78th Session enacted new gift prohibitions. They prohibit a lobbyist from giving a gift to a member of the Legislative Branch or a member of his or her immediate family. That changed the way gift giving was regulated prior to that date; as a result, there was a need for interpretation of the new legislation.

That interpretation was provided by the LCB Legal Division at the direction of the Director of the LCB who is charged with administering the Lobbying Act. The LCB guidance was put together in a document—the LCB *Guide for the Legislative Branch of Nevada State Government* ([Exhibit C](#))—which involves gifts, educational and informational meetings, events, trips and related matters. The Legislators are familiar with this Guide, each of you receive a copy at the beginning of Session. What it contains is a series of agency or administrative interpretations from the LCB giving some additional clarity and guidance on how to conform the conduct of lobbyists and Legislators to the requirements of both the Lobbying Act and the Financial Disclosure Act.

The first components in [A.B. 452](#) are statutory codifications of the LCB's administrative interpretations. Keep in mind an administrative interpretation is entitled to deference in the courts, but it is not binding law. The point of this is to take the LCB interpretations and put them in statute so they are binding law. That way, they provide greater guidance for the Legislators and staff that are easier to find. Of course they are then the law of the land, and they are binding.

Sections 2 and 3 are two definitions: one of client, which would be the client of the lobbyist; the second is immediate family. That term was not defined in the law. The LCB Guide relied on caselaw. This way, we have a statutory definition of the term immediate family. Section 4 is connected to section 30 in the bill, which requires the Director of the LCB and the Secretary of State need, to the fullest extent practicable, confer and consult with each other to ensure there is uniformity of interpretation between the Lobbying Act and the Financial Disclosure Act because the Financial Disclosure Act is administered by the Secretary of State's Office.

Section 5 is an important part of the bill. This part of the interpretation from the LCB Guide does establish that once a person engages in any activity during the Session as a lobbyist, they are considered a lobbyist from that moment until the next regular Session unless they completely terminate all lobbying activities and do not engage in any of those lobbying activities during that period. The reason is that the gift prohibitions in statute specifically apply whether or not the Legislature is in Session. This statutory codifies the fact that once you are lobbyist, you are going to be a lobbyist during that next period between the first Session when you registered and the next Session. You will be continually considered a lobbyist during that period.

Section 6 changes the name of the chapter [NRS 218H.010] from the Nevada Lobbying Disclosure Act to the Nevada Lobbying Disclosure and Regulation Act. With the gift giving prohibitions now, the act is broader than simply disclosure requirements.

Sections 9 and 10 deal with definitions of "gift" and "educational or informational, meeting, event or trip." The changes here are statutory codifications of LCB interpretations. The first one is that if a Legislator or other public officer is engaged in an activity that is part of their bonafide employment or independent contractor service, that is not going to fall within the confines of the Lobbying Act or the Financial Disclosure Act. It is not a gift if you are doing something in exchange for your employer because there is consideration in that employment relationship. This codifies that concept in law. In section 9, this gives guidance to the difference between a party meal function or social event, which every Legislator is invited, versus an educational, informational meeting, event or trip.

An interpretation issue is if an event starts out as a social event where every Legislator is invited but then formal presentations are made, that is where the line crosses and it becomes an educational or informational meeting, event or trip that needs to be disclosed on the Financial Disclosure Statement (FDS). This provides a clear dividing line that if there is no formal speech presentation or other similar action to educate or inform the Legislators, it is a social event. If every Legislator is invited, it is not included within the scope of the Lobbying Act and the FDS. However, if there are those formal speeches presentations or similar activities, then it is an educational event and it would need to be reported on the FDS.

Section 12 is the definition of lobbyists. The first change is to clarify that members of the Legislative Branch are not lobbyists, and we are all here doing our jobs. Whether you are Legislators or staff, you are not lobbying; you are in fact doing your job. On page 9 [lines 1 through 3], another clarification is persons who are clients of lobbyists are not lobbyists unless those clients engage in any activities that independently would make them a lobbyist. This is a clarification to ensure that a client of a lobbyist can give a gift to a Legislator and it may have to be reported on your FDS, but the client is not the lobbyist. However, if the client appears in the building and engages in their own lobbying activity even if they have a lobbyist, that client is going to need to register, and that client would be a lobbyist and subject to the gift prohibitions.

Section 13 is codifying an interpretation definition of "member of the Legislative Branch." It was initially a broad definition, this just provides further clarification. In particular, it applies to any officer, employee, assistant or other person who is assisting with the functions of the Legislative Branch whether or not compensation is paid for those positions. That would include attachés, interns and other staff. We are all subject to the gift prohibitions, and this clarifies that definition which is codification of LCB interpretation.

The next change is registering as lobbyists. What this does is require additional and greater information in the registration statement. It also requires a lobbyist to update their registration statement more often. During Session, they have to update any change in their registration within 24 hours; in the Interim, they would have to update any change in registration no later than 14 days after that change.

Section 19 clarifies that when a lobbyist files a termination of Session activity notice, that notice provides the Director with notice that they are not lobbying anymore. But that notice of termination of Session activity does not relieve the lobbyist of the reporting requirements and does not relieve the lobbyist of the gift prohibitions and the other regulations in the Lobbying Act.

Section 20 deals with the regulations the Legislative Commission can adopt. This provides that the Legislative Commission may adopt regulations that provide for exemptions and exceptions from the provisions of the Lobbying Act in order to ensure that the people have the fullest opportunity to lobby and petition their government. What this allows the Legislative Commission to do is find situations, if necessary, where they need to provide exemptions or exceptions for particular groups that come to the Legislature. There are situations when nonprofit organizations will bring some of their members that they serve [who] come to the Legislature. They may not just limit their activities to the committee, they may go talk to Legislators. There are situations when the Legislative Commission can come up with regulations and exempt those individuals from having to register as lobbyists. Otherwise, if individuals like that—and it could even be a situation where school children come in. Technically, if they are talking to individual Legislators and trying to influence those Legislators, they are engaging in lobbying activity and they would have to register. This will give the Legislative Commission the opportunity to create exceptions and exemptions in those types of situations.

The remainder of the bill takes some of the things we just talked about and not only puts them in the Lobbying Act but in the Financial Disclosure Act in NRS 281. The final codification of a LCB interpretation is in the gift prohibitions themselves on page 15 in section 22. Our interpretation is lobbyists are prohibited from giving a gift and also from directly or indirectly arranging, facilitating or serving as a conduit for such a gift. This stems from the fact that what someone cannot do directly, they are still prohibited from doing indirectly as well. This is a codification of that concept, so the lobbyists cannot give a gift or otherwise directly or indirectly arrange, facilitate or serve as a conduit for such a gift.

In the Financial Disclosure Act on page 19 in section 28, when someone is first appointed to serve in a public office, they file a FDS; it has to be filed within 30 days. That FDS will cover the full calendar year proceeding the date of the appointment. On page 19 in section 28, this creates an exception for that so when the newly appointed public officer—if they have not been serving in another public office—has to file their first FDS within that 30-day period, for the purposes of disclosing gifts and educational or informational meetings, events or trips, the lookback period is only 30 days. Everything else they have to disclose is for the full prior year. But for gifts and educational or informational meetings, events or trips it is just the 30-day lookback period. This would cover their first financial disclosure report. Any financial disclosure report they file after that would have the full year period preceding the date of when the FDS is due.

SENATOR SEEVERS GANSERT:

Regarding section 28, that is only if someone is appointed, it is a 30-day lookback?

MR. POWERS:

Correct. It is a 30-day lookback for someone who is appointed, not for someone who becomes a candidate, and only if they have not been serving in that calendar year in another public office. If they have been serving in another public office, they have already had to file FDS. I believe the underlying theory behind the change is if someone did not anticipate being appointed as a public officer, they were not keeping track of potential gifts and educational or informational meetings, events or trips. For them to lookback at the full calendar year may be somewhat more onerous than someone who has already been serving in the legislative office or someone who intends to become a candidate.

The 30-day lookback period is only for that public officer who is appointed and has not been serving in a public office during that calendar year.

SENATOR SEEVERS GANSERT:

We have had a number of appointments this Session. I am not sure if any of those folks anticipated being appointed even 30 days out. It seems like we had appointments that took a week or two. For them to have to go through their calendar and report that they had lunch with someone because now it is on the radar whereas it was not on the radar until they were in the process of being in the queue or requesting for the appointment, the 30 days is not necessarily in line with someone's knowledge or intent to be appointed.

MR. POWERS:

That is an issue of policy, and the bill has a 30-day lookback period. Right now, it is a full calendar year lookback period. At the very least, the comparison is that 30 days is far less than the whole 12-month period.

SENATOR SEEVERS GANSERT:

The full year—that was through LCB interpretation like a legal interpretation? It was a policy created versus looking to codify? Is this in statute?

MR. POWERS:

That is currently in statute. This is not a codification of a LCB Guide policy. Currently in statute, the FDS for a public officer when they are first appointed covers the full calendar year prior to their appointment. They would have to look back for gifts and educational or informational meetings, events or trips all under statute. That is not an interpretation.

SENATOR PICKARD:

What is different, assuming this will get passed? What changes for the candidate? Is anything changing in this process?

MR. POWERS:

From our standpoint, nothing changes because it codifies those administrative interpretations. We would point to the statute where before we would point to the LCB Guide. It provides greater assurance to the public officers if we can point to a statute rather than the LCB Guide because the statute is binding law. The LCB Guide is always titled to deference.

CHAIR OHRENSCHALL:

I will open the hearing on A.B. 444.

ASSEMBLY BILL 444 (1st Reprint): Creates the Legislative Committee on Tax Expenditures and Incentives for Economic Development. (BDR 17-767)

ASSEMBLYWOMAN DINA NEAL (Assembly District No. 7):

I am presenting A.B. 444, basically a bill that creates an Interim Legislative Committee on Tax Expenditures and Incentives for Economic Development. The goal is to identify and evaluate all incentives for economic development in the State. Some of the powers are that the Committee may review and comment on other issues relating to tax expenditures. It shall determine whether a business receiving abatements is meeting the wage and health requirements for employees as specified by law. The Committee consists of six Legislators who must be members of the Legislature with jurisdiction over the matters for budget, finance and taxation and shall report to the Legislature on a regular basis. The Committee may make recommendations and revisions to the tax expenditures and incentives. The bill is effective on passage.

SENATOR PICKARD:

How does this interact with the Governor's Office of Economic Development Office (GOED) as it encourages businesses to come here? How do you anticipate this Committee working with GOED?

ASSEMBLYWOMAN NEAL:

The Governor's Office of Economic Development is not against the bill. It likes that we can review and figure out if the incentives we pass are effective and would like to monitor this process. It does not have a position on the board but is interested in making sure the incentives work and perform. The GOED has offered some of the amendments to the bill.

SENATOR PICKARD:

I would imagine you are helping GOED out by taking some of the responsibility off of the Office. Has there been a discussion on how the efforts would dovetail? Would there be joint meetings? How would the combined efforts run, interact and streamline the process?

DEREK ARMSTRONG (Deputy Director, Governor's Office of Economic Development):

We see a lot of value in this bill and having the Legislature more involved with GOED to better understand our incentives and how they are working. We provide nine different reports to the Legislature: the Biannual Report, which goes over the standard incentives; a special report relating to Tesla; plus reports for the: Knowledge Fund; Workforce Innovations for a New Nevada fund; film tax credit program; Emerging Small Business program; financial report on the unmanned aerial vehicle sector; nonprofit report; and the Catalyst Fund report. We provide quite bit of information to the Legislature as well as working with the Department of Taxation on incentives to ensure the audit process works correctly. We can assist the Legislature on understanding that process and clarifying any information.

SENATOR SEEVERS GANSERT:

This bill looks like an internal evaluation versus comparing Nevada's incentives in where we are positioned relative to other states.

ASSEMBLYWOMAN NEAL:

It does not unless the flexibility is there on page 4, lines 16 and 17 in "a comparison to the results of other incentives or programs for economic development with similar goals." This is the only language that would even allow us to go to that degree. The idea was to compare and contrast clearly. For us to compare and contrast with other states to see how well they are doing with their return on investment (ROI) and incentives is to make sure the statutory structure is the same.

SENATOR SEEVERS GANSERT:

When you look at economic development and incentives, the purpose is we want to bring businesses or help expand businesses in Nevada. It does make it important to have a relevant comparison. We are competing with California, Arizona, Idaho and Utah to make sure our incentives are what they need to be and compare them to other states for effectiveness because that is how businesses make their decisions. We need a two-step overall evaluation of why we are doing what we are doing and does it make sense. We are competing with other states, and that is how Nevada ends up expanding by bringing in bigger business.

ASSEMBLYWOMAN NEAL:

Section 8, subsection (d) addresses what you are talking about. Section 8, subsections (d), (g) and (h) delve into some of that conversation. Section 8, subsection (d) has the manner in which the tax expenditure compares to similar tax expenditure in other states, but subsection (h) is the opportunity to improve the effectiveness of the tax expenditure. This gets into a conversation about what is your business environment? What is your tax environment? What have you seen in terms of ROI when tightening or flexing incentives? What have you seen in regard to certain industries? How have you been able to court them or bring them into the State? Section 8 allows for that level of flexibility, and GOED already does cost analysis for everything to determine what fish to bait to bring an abatement over. This is a natural part of what GOED does.

SENATOR PICKARD:

Section 7, subsection 4 talks about what the Legislative Committee on Tax Expenditures and Incentives for Economic Development will review. Section 7, subsection 4, paragraph (g) mentions any other matters, that in the determination of the committee, concern incentives for economic development in this State. Combined with what was pointed out in section 8, there is room and authority to be looking at other states to keep Nevada competitive.

MR. ARMSTRONG:

The Governor's Office is neutral to A.B. 444.

MELANIE YOUNG (Executive Director, Department of Taxation):

The Department of Taxation is neutral to A.B. 444 as referenced from my testimony ([Exhibit D](#)).

CHAIR OHRENSCHALL:

I am requesting the Committee to introduce a bill draft request (BDR).

BILL DRAFT REQUEST 1290: Designates certain members of the Senate as regular and alternate members of the Legislative Commission for the 2019-2021 biennium. Later introduced as Senate Joint Resolution 8.

SENATOR PICKARD MOVED TO INTRODUCE BDR R-1290.

SENATOR SEEVERS GANSERT SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CANCELA WAS ABSENT FOR THE VOTE.)

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CHAIR OHRENSCHALL:
I will open the meeting on A.B. 345.

ASSEMBLY BILL 345 (2nd Reprint): Makes various changes relating to elections.
(BDR 24-873)

ASSEMBLYMAN JASON FRIERSON (Assembly District No. 8):
I am here to present A.B. 345 as referenced from my testimony ([Exhibit E](#)).

HOLLY WELBORN (American Civil Liberties Union of Nevada):
American Civil Liberties Union of Nevada supports A.B. 345. I am testifying on behalf of our grassroots organization People Power. Active since 2016, it is group of grassroots activists who promote civil liberties issues and the civil liberties voter. One of the most important issues is same-day voter registration. Same-day voter registration will expand the right to vote. We have an election protection program that goes into effect every election cycle. The No. 1 complaint we hear is that people show up on Election Day and something happened with the voter registration, creating a problem to finalize their registration. Same-day registration would affect that barrier for people who are eligible to vote. This will drastically improve that for us and limit some of those complaints.

CHRISTINE SAUNDERS (Progressive Leadership Alliance of Nevada):
The Progressive Leadership Alliance of Nevada supports A.B. 345 as referenced from my testimony ([Exhibit F](#)).

GARIETY PRUITT (Nevada Conservation League Education Fund):
The Nevada Conservation League supports A.B. 345 as referenced from my testimony ([Exhibit G](#)).

JOE GLORIA (Registrar of Voters, Clark County):
I support A.B. 345 as referenced from my testimony ([Exhibit H](#)).

MELODY JUDILLA (Silver State Voices):

I am testifying for Emily Zamora who is in support of A.B. 345. I will be reading her written testimony ([Exhibit I](#)).

QUENTIN SAVVOIR (Make It Work Nevada):

Make It Work Nevada supports A.B. 345. This is a strong robust piece of public policy that will go a long way to increase voter participation and to ensure the votes of all Nevadans are counted and their voices are considered in our elections. We are excited about the same-day voter registration provision in the bill. Your support of A.B. 345 will put Nevada among 17 other states, both red and blue, that allow for same-day voter registration. This will continue to diversify the voices of the electorate of this State and, hopefully, will compel more people to be leaders in their own communities and become more civically engaged. We are proud of the latitude given to absentee voting; as it stands, absentee voting has to be received by a specified date and time, whereas with A.B. 345, everyday hard-working Nevadans get more time to submit their absentee ballots into election officials. With the passage of this measure, absentee ballots can be received by a county or city clerk up to 14 days following an election. Strengthening and improving our democracy should not be a partisan issue. Making folks' voices more pervasive and heard is good for all parties.

BRIANA ESCAMILLA (Human Rights Campaign):

I support A.B. 345 as it will expand access to the polls for all Nevadans. Updating the voting online registration portal is beneficial for low-resource communities including transgender Nevadans who, should the bill pass, will have an easier time updating their names on voter rolls. Currently, the process for updating your name for the voter registration is to fill out a new voter registration form with your new name. Creating an alternative process to do a legal name change on the voter registration will save time and resources for both the election department and voters.

APRIL SANBORN (Department of Motor Vehicles):

The Department of Motor Vehicles (DMV) supports A.B. 345 with regard to the sections that impact the DMV.

CECIA ALVARADO (State Director, Mi Familia Vota):

Mi Familia Vota supports A.B. 345 as referenced from my testimony ([Exhibit J](#)).

CYNTHIA YAP (NextGen America):

I support A.B. 345. Young people make up the largest voting block in the Country, but they tend to vote at half the rate of older Americans. This is why NextGen America is fighting to ensure every young person can cast their ballot to shape election outcomes. In Nevada, this means adding more on-campus polling locations, passing same-day voter registration and implementing automatic voter registration. Young people deserve to have a voice in our democracy, and A.B. 345 will help to mitigate voter suppression efforts that remain in place.

A historic 37 percent of Nevadans aged 18 to 35 casted a ballot in the 2018 midterm elections, up 22 points from the last midterm election. We can produce similar results in youth turnout in 2020. But to do so, young Nevadans need the help of our State elected officials to curb voter suppression by expanding access to the ballot box. Many students in Nevada struggle with balancing school, jobs, extracurricular activities, family obligations and more. But that does not mean they do not care about the issues affecting Nevada. Young people in Nevada do care and worry about the cost of college. They care about access to quality and affordable healthcare, racial justice and equality in the State. We need young voters to turn out and vote on these issues in 2020. We believe A.B. 345 will expand access to young voters and provide them with an avenue to make their voices heard.

MICHAEL WILLOUGHBY:

I support A.B. 345 as referenced from my testimony ([Exhibit K](#)).

DAN SANTOS (Asian Community Development Council):

I support A.B. 345. In 2018, the Asian Community Development Council conducted a voter registration program. We registered over 14,000 Nevadans, including naturalized citizens. Due to the voter registration deadlines in October 2018 and the schedule of the naturalization ceremonies, it meant that 600 citizens just missed the deadline to register to vote. There were naturalization ceremonies on October 12, 19 and November 2, 2018, with 4 ceremonies each day. They schedule 50 people per ceremony. We are looking at around 600 new eligible citizens who were not able to vote due to the deadline. These are individuals who have lived in the community for years and have gone through the process to gain their citizenship. Once they are finally eligible to participate in America's democratic process, they are unable to because of arbitrary

deadlines. We support A.B. 345 because it ensures that all eligible voters have the ability to participate in our democracy.

DEANNA SPIKULA (Registrar of Voters, Washoe County):

Washoe County is neutral to A.B. 345. It makes significant changes on how we run elections in Nevada, not just for the county clerks but for the voters. We appreciate the amendments proposed to the bill to give us the framework and flexibility to continue to provide excellence in election administration.

SENATOR PICKARD:

It is the election officials in each county who verify the eligibility for registration? Is that correct?

Ms. SPIKULA:

Yes, that is correct.

SENATOR PICKARD:

Does the DMV turn that information over to the clerks? It is my understanding that DMV does not do the verification.

Ms. SPIKULA:

I do not understand the question. We do accept voter registration of verification on a nightly upload to the Secretary of State's Office. They do run their checks and balances through the website.

MR. POWERS:

I believe Senator Pickard is referring to the automatic voter registration initiative provisions of the bill. That is Ballot Question No. 5 that was approved at the 2018 general election. Although it is called the automatic voter registration initiative, it really is the automatic transmission of voter registration information to the county and city clerks for them to verify whether the voter is eligible to vote. However, that is not very friendly on the ballot, so it is called the automatic voter registration initiative. The bottom line is the DMV transmits the information to the county clerks, and the county clerks then have to determine whether or not they are eligible to vote. If they are not eligible to vote, they are not registered by the county clerks.

SENATOR PICKARD:

Some of the registrars may not know that. I just want to make sure we have a continuation of responsibility and integrity within the system because we are seeing a lot of changes, and we need to be prepared for those changes. We are only going to be registering eligible voters.

SENATOR SEEVERS GANSERT:

I was not sure the counties actually verified individuals or if the Secretary of State needed to verify, basically making sure there are not duplicates and that people are eligible to vote.

KATHY LEWIS (Clerk/Treasurer, Douglas County):

Douglas County is neutral to A.B. 345. Although this will increase our workload and there will be a fiscal impact, in our current decentralized environment, the only way to accomplish same-day registration is through a provisional ballot. I would like to thank Speaker Frierson for some of the other provisions in this bill. Revising the requirements to publish certain information relating to elections will save Douglas County and the State money. We have discussed revising the deadlines for absentee ballots earlier in this Committee. The current deadlines in many cases make it difficult for voters to timely return their ballots. But because the deadline is in law, it sets the expectation that the voter can wait until the deadline and easily vote his or her ballot by mail. Finally, allowing more than one student trainee to be assigned to a polling location, we are really excited about this provision and look forward to involving our students more in the election process.

SENATOR SEEVERS GANSERT:

You had mentioned going to electronically posting things versus posting in the paper, is that right?

Ms. LEWIS:

That is right. We do not have to publish as much or as many times.

SENATOR SEEVERS GANSERT:

Is it a frequency issue, but you still have to publish in the paper? I know not everybody is savvy as far as the internet. We want to make sure people have the information so they can vote.

Ms. LEWIS:

It is the frequency; it still needs to be published in the paper but not as many times.

AUBREY ROWLATT (Clerk/Recorder, Carson City):

Carson City is neutral to A.B. 345 as referenced from my testimony ([Exhibit L](#)).

WAYNE THORLEY (Deputy Secretary for Elections, Office of the Secretary of State):

The Secretary of State's Office is opposed to A.B. 345 as referenced from my testimony ([Exhibit M](#)).

SENATOR SEEVERS GANSERT:

Going back to the verification process, I recall from previous presentations that since we have a bottom-up system, at some point the information has to go to the Secretary of State. Could you describe that? Do you actually verify if someone is eligible or do the counties do that?

MR. THORLEY:

The bottom-up process is a person registers to vote, and then his or her data is entered into the county voter registration database. On a nightly basis, we receive a voter registration file, a complete copy of the database from all 17 counties. For any new registrants, the Secretary of State's (SOS) Office takes this information and verifies it against the DMV database and the Social Security Administration database. We check for a match based on the driver's license or ID card number the DMV gives us or the last four digits of the social security number. This verification is done to satisfy the requirements in federal law, the Help America Vote Act (HAVA) and State law that we verify voters' identities and residencies prior to them casting ballots in their first election.

SENATOR SEEVERS GANSERT:

You can do most of that overnight. But you still cannot verify if someone is registered to vote in another state? We can only check our counties. Is that accurate?

MR. THORLEY:

We do belong to an organization called Electronic Registration Information Center (ERIC). There are currently 27 member states, including the District of Columbia, soon to be 28 states. These states all agree to a membership

agreement; as part of that agreement, every two months we upload our voter file and a copy of the DMV database. Then ERIC performs records match against all files from the other 27 states and District of Columbia. It tells us through matching where a person is potentially moved to a different state. We use this information to go through the National Voter Registration Act process that spells out how the SOS Office must approach updating these individual records when we have an indication that they have passed away or moved.

SENATOR SEEVERS GANSERT:

When someone registers to vote and does not have a driver's license or ID card, there are variety of things he or she can use. I believe you have to have a 30-day residency to register to vote. Does that get eliminated in this process? Do we still have a requirement for a certain number of days of residency before registering to vote?

MR. THORLEY:

It is my understanding the residency requirement is 30 days in the State and 10 days in your district. There is a provision in the Nevada Constitution that requires a six-month residency, but this has not been enforced since the U.S. Supreme Court ruling. There is in statute a 30-day residency requirement.

MR. POWERS:

A point of clarification for the same-day registration portions of the bill, sections 8 and 9: the person has to present a driver's license or an identification card. If their address on their current driver's license or registration card is not their current address because they have not changed it yet, they can use the alternative items of identification listed in the bill to demonstrate what their current address is. They still need to have a valid driver's license or ID card to prove their identity. It is just the address can be confirmed by a different document if they have moved.

SENATOR SEEVERS GANSERT:

Everybody wants as many people as possible to register to vote and participate in the process, but we need to make sure we maintain integrity. It sounds like we are going to jerry-rig the next election because we have the bottom-up system. But if we had a top-down system, we would verify everything the same day and see the records across the State. Is that accurate?

MR. THORLEY:

Yes, that is the SOS position. If we had a top-down voter registration system, it could do the HAVA verifications that we do on a nightly basis. Because we have the bottom-up system, we only get the files once a day at night. We could do that in near real time and do the required federal and state validations for the voter at the polling place, so he or she can cast a full regular ballot that would be counted in the election.

SENATOR SEEVERS GANSERT:

Is the issue time or money? It seems like if we could have the top-down system, this could be put in 2020, but it is difficult right now. I am thinking we could appropriate money. Do you have an issue with timing and the various counties?

MR. THORLEY:

It would be more expensive to do a top-down method, approximately \$6 million to implement that. The appropriation in the bill for the current system is about \$500,000 to make modifications over the biennium. Under the current bill and process, it is significantly less than what would be required to go to a top-down system. There is a timing issue. The bill requires same-day registration to be in place for the 2020 elections. Our argument is it would be worth taking the time to make it into a top-down system in 24 months.

SENATOR PICKARD:

The driver's license is a Nevada driver's license? Someone could not come with a California driver's license; he or she would need to obtain a Nevada driver's license?

MR. POWERS:

Correct. It has to be a valid current driver's license or ID card issued by the Nevada DMV. When the DMV is referred to in NRS, it is the State's Department of Motor Vehicles. It is limited to a Nevada-issued driver's license or identification card that is current and valid.

SENATOR PICKARD:

It is my understanding the SOS does not have a database to verify eligibility. In terms of someone coming from Canada who lives here for 20 years but is not a citizen, there is no way of us knowing that, correct?

MR. THORLEY:

Correct. There is no database that allows us to check a person's citizenship.

SENATOR CANCELA:

How does that interact with the check you described when someone first registers to vote?

MR. THORLEY:

The verification is done to comply with HAVA and the State election law which mirrors federal law that requires verification of identity and residency; it does not require verification of citizenship.

SENATOR CANCELA:

How many noncitizens have you had registered to vote and caught through verification?

MR. THORLEY:

We do not have a database to check if the person is a U.S. citizen. We become aware of it from other means, oftentimes because people will get a voter registration confirmation card in the mail and not realize they registered to vote. I would like to put some numbers together for you and take this back to the SOS. It does happen when someone accidentally registers to vote due to not understanding the form or because of a language barrier.

SENATOR CANCELA:

Section 13 would remove the ability for the SOS to essentially go after people who make a mistake and register to vote. I do not see that in the language. How many folks has the SOS enforced legal action on today?

MR. THORLEY:

Section 13 on page 18 of A.B. 345, beginning on line 26, subsection 2 states if a county clerk determines that the person is not eligible. The person has already gone through the Automatic Voter Registration (AVR) process at the DMV that includes checking a box that he or she is a U.S. citizen and signing an affirmation that he or she meets all the eligibility requirements. If the county determines that the person is not eligible, it says the voter application never existed. The county clerk must reject the application, and it shall be deemed that the person never applied to register to vote. We cannot go after someone

for registering to who is not eligible. Line 30 says the person did not apply to register to vote.

SENATOR CANCELA:

You testified there are folks today who were ineligible to vote but have registered to vote. Have you used the authority of the SOS Office to enforce penalties on these folks?

MR. THORLEY:

There are ongoing criminal investigations. I cannot share that information with you. I cannot share specific numbers. In the time that I have been with Secretary of State, Barbara Cegavske, we have not prosecuted someone for registering to vote when they were not a U.S. citizen. We have prosecuted one person for registering to vote when they did not meet a different eligibility requirement.

SENATOR CANCELA:

It is not a power you use widely today?

MR. THORLEY:

We do not have prosecutorial powers with the SOS Office. We would rely on a State prosecutor or district attorney to prosecute any of these cases that we referred to them.

SENATOR CANCELA:

I prepared for this bill and watched this on the Assembly side. The SOS was neutral to the bill, and today you are in opposition. Can you point out the specific changes in the bill that moved your position?

MR. THORLEY:

We are completely neutral when it comes to the policy proposals presented, whether same-day registration is a good idea or not. Our opposition is simply because of the implementation in these two sections. On the Assembly side, the testimony was limited to only two minutes because there were a lot of people interested in testifying for this bill. They did not present SOS an opportunity to give a full explanation of our concerns. There is not a change that has occurred from the Assembly side to the Senate side. I cannot point you to a specific amendment. It is the process of accomplishing same-day registration.

SENATOR CANCELA:

The SOS perspective on this bill is important. It is too bad you did not submit written testimony in addition to the two minutes to have a consistent position across the board.

CHAIR OHRENSCHALL:

Mr. Thorley, could you please get us the data requested?

MR. THORLEY:

Absolutely.

SENATOR PICKARD:

I am wondering if you could just briefly describe what your enforcement side looks like, how many people do you have? You said you do not have prosecutorial powers, but presumably you have investigatory powers or responsibilities. How many people do that?

MR. THORLEY:

On the compliance side, which is the noncriminal side, the SOS Office for the Elections Division has one compliance investigator. Other staff chips in and assists with researching and investigating complaints that are received. We do have one official compliance investigator position. On the criminal side, the SOS Office does employ several criminal investigators in the Securities Division. There are approximately seven criminal investigators all within the Securities Division: they are not in the Elections Division. We do ask for assistance from the Securities Division to investigate any potential election crimes. There is an NRS statute in the Department of Public Safety, Investigation Division chapter that allows the SOS to call on investigators with the Investigation Division to assist on any elections relating to criminal investigations.

CHAIR OHRENSCHALL:

There has only been one recommendation for prosecution and that was not someone who was a citizen who did not qualify to be registered?

MR. THORLEY:

That is correct.

CHAIR OHRENSCHALL:

"That is since ... "

MR. THORLEY:

"Secretary Cegavske has been elected ... "

CHAIR OHRENSCHALL:

"... which was six years ago."

MR. THORLEY:

Yes. We have had one prosecution, and it resulted in a conviction. It was not for noncitizenship. It was for a prior felony conviction.

MR. POWERS:

I want the record to be clear. Section 13 does not apply to same-day registration. Section 13 only applies to information transmitted from the DMV under the automatic voter [registration] initiative to the county clerks. If someone on same-day registration is not eligible to vote and they apply, that would be a crime and they could be prosecuted. Section 13 only applies to the situation when someone applies at the DMV and that information is transmitted to the county clerks.

SENATOR PICKARD:

If 100 percent of the people who come to your knowledge are self-reported and you only have one person in compliance, does this change the approach you are going to have to take in terms of verification or are we relying on only those who self-report that they improperly submitted an application?

MR. THORLEY:

Certainly through AVR it is has been other states' experiences. I have no reason to suspect that our experience would be any different. We are going to see a significant increase in the number of individuals who are registering to vote. We are in the process of drafting our regulations in consultation with the Attorney General's Office and the DMV to adopt in conjunction with the implementation of AVR that will be beneficial in this process and help ensure that only those who are eligible to register to vote are registering to vote. Of course those regulations would come before the Legislative Commission for review and approval. It is our hope to have those adopted by January 1, 2020, in time for the rollout of AVR.

JANINE HANSEN (Nevada Families for Freedom):

A lot of people came to the hearing in the Assembly. Tonight, many hardworking Nevadans who opposed this bill in the Assembly and would like to be here are not because of little notice, and it is the end of the Session. They are working and have families, they are not employed in this building, and they are not employed by any advocacy organization.

One of my biggest concerns about this bill is the issue of provisional ballots. Initially, we thought there was going to be a bottom-up system and then it would be moving to a top-down system so that provisional ballot—which will take ten days for people who register and vote on Election Day so we know they are eligible to register to vote—would just be for the 2020 election. Because there is no money for a top-down system to be implemented, this will be in perpetuity. We will be waiting every election for ten days to get the results. This is a problem. People are not going to be happy about waiting ten days to get election results. In fact, they are going to be mad; they want to know election night. Now, we will not know for almost a week and half. In addition to this, it will make people worry about what is going on during that ten days. Do we have voter fraud or circumstances beyond our control? People are going to be very unhappy whether they belong to any political groups. This is going to make people angry.

Another issue I am concerned about in this bill is Automatic Voter Registration. I have a question for the DMV. Is there a different identifiable number when you get a driver's license for a citizen or when you get a driver's authorization card? Are those numbers distinguishable in any way or are they exactly the same? The reason this is an important question when we have AVR is when those are uploaded, there is not a way to check if they are citizens. They can check their addresses and whether they are real people, but there is no way to check if they are eligible voters or noncitizens. If under the DMV there was a different identification number that identified whether they have a driver's authorization card or a driver's license, then the county clerks would notice the difference. The DMV, since it may not have separate numbers for those two different types of driver's licenses, is creating a process by which we will have institutional voter fraud. I am concerned about that question. We need to do everything we can to help the clerks and SOS in their system to be sure we have eligible voters so people have confidence in the system and we do not have noncitizens and ineligible people voting. Milwaukee has same-day registration and 62,000 people have shown up on Election Day to register to vote. That would

overwhelm the system, but what would it do for provisional ballots? I am opposed to A.B. 345.

CHAIR OHRENSCHALL:

We have testimony from the SOS that in the last four and a half years, there has been one recommendation for prosecution. It is not accurate to say there is any kind of institutional voter fraud based on the data we have and the testimony.

Ms. HANSEN:

Because we do not know based on the different numbers, it is impossible to tell.

CHAIR OHRENSCHALL:

I do have to disagree with you based on the testimony we had from the SOS Office.

PATTI JESINOSKI:

I am opposed to A.B. 345. This is adding more cost to what taxpayers are paying for elections. It does not matter if it comes from my taxes in Clark County or taxes in Carson City and appropriations. I see there still is confusion. We are a republic, and everyone down here keeps calling this a democracy. It appears civics class is not a required class throughout Nevada. It is difficult to understand the coddling of adults for voting making more exceptions to get them to come vote instead of thinking of their civic duty. It is hard to see how same-day registration will be accomplished. As a poll watcher in the last election, the manager at the polls who I worked for was telling people who turned in voter registration to allow four to six weeks to see if it was in the voter registration file in the Nevada computer. What year does the teaching and learning personal responsibility start in this State? How are college students going to be weeded out of being allowed to vote if they are out-of-state residents? How do you confirm any of that? Students show that they have an ID and go to school in Nevada. What if the voter registration application is so poorly written to render it ineligible when they turn it on the general election day? How is that vote removed? What if the person still has an Arizona license because it is good for 35 years? In all the years that I have worked as a retail pharmacist, dozens and hundreds of people who live here used Arizona licenses. Is there going to be another exception for them to vote here? They will say they did not know there was grace period for getting a Nevada driver's license. I do not understand how there are foreigners voting for voter registration. There is

no way to verify any of this. You can say there is only one person, but we have not been able to verify that individual.

ASSEMBLYMAN FRIERSON:

It is admittedly frustrating with months of work to go in and have what I consider to be a disingenuous switch of position conveniently made by the Secretary of State's Office at this stage with absolutely no new information. We have worked diligently to take into account their concerns. I am also frustrated by the notion that much of the opposition—in particular from the SOS Office our chief elections officer—used this as opportunity to advocate for stuff that A.B. 345 is not. This bill is not designed to make our system top-down when it is bottom-up. I would welcome somebody advocating for a top-down and also advocating to pay for it. But until we get to that point, we have a bottom-up system that has served us.

In response to concerns about volume, the clerk of the largest county in the State supports the bill. I do not think we have 62,000 voters in Carson City, let alone worry about them on same-day registration as an example. But when the Clark County Registrar is acknowledging that they can make it happen, the volume can be taken into account based on that support. I respect the concerns about anything that might be perceived as confusion for voters. The most confusing thing for voters and candidates is to get it wrong. Some of these responses are new, although we have been working on this for several months. Many of them are complaints about the existing system that could be improved if there is a will on the part of this entire institution to pay more to upgrade systems. To use this bill as a reason to come and present a \$6 million fiscal note to make the system something this bill does not propose to even do is misleading. But I will continue to work with partners that have to implement this and take their concerns into consideration. I look forward to the end product.

CHAIR OHRENSCHALL:

I appreciate all the stakeholders you brought on this bill. We have worked on similar bills before, and we had testimony from the clerks from the 17 counties from the last election. There were over 10,000 people who registered to vote between the cutoff and Election Day—10,000 qualified electors who missed the deadline for whatever reason and did not get to participate in our democracy.

SENATOR SEEVERS GANSERT:

When Clark County testified, Mr. Gloria talked about being able to figure out how to use the bottom-up system through the next election. He also talked about his fiscal note, are we covering his fiscal note? I believe the original bill was \$2 million, and I do not know what it is now. Have we taken that into consideration?

CHAIR OHRENSCHALL:

I will remind Speaker Frierson we are not a money committee but a policy committee. If you would like to answer the question, you can.

ASSEMBLYMAN FRIERSON:

I believe that the original fiscal note was reduced down to \$550,000 total out of Clark County for 2 years. This not being a money committee, there is a need for this to be addressed in the money committee as well.

CHAIR OHRENSCHALL:

I will now open it up for public comment.

Ms. JESINOSKI:

I was here in 2017 listening to Secretary Cegavske's report when she requested back then that they needed a top-down system. So it is not like it was never brought up.

Ms. HANSEN:

I just had the opportunity to talk with the DMV, and it is true that there is no differentiation in numbers between a driver's authorization card and driver's license. According to that, there is no way to identify who is a citizen and who is not.

SENATOR CANCELA:

For the record, when you want to register to vote, when you go register to vote, you have to check a box that as an individual you are committing that you are a citizen of the U.S., that you are over 18 years old, and you sign with your signature to say this information is correct. If a person lies on the voter registration form, there are other ways to address that. But a person who registers to vote signs under the full force of the law that they are a U.S. citizen and the information on the form is correct.

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CHAIR OHRENSCHALL:

I believe it is under penalty of perjury that the applicant for registration to vote signs too. There are serious penalties for someone trying to register who does not qualify whether it is due to a lack of citizenship or under the burden of a felony conviction.

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CHAIR OHRENSCHALL:
I will adjourn this meeting at 10:15 p.m.

RESPECTFULLY SUBMITTED:

Janae Johnson,
Committee Secretary

APPROVED BY:

Senator James Ohrenschall, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	5		Attendance Roster
A.B. 452	C	128	Kevin Powers	Guide for Legislative Branch of Nevada State Government
A.B. 444	D	1	Melanie Young / Department of Taxation	Testimony
A.B. 345	E	5	Assemblyman Jason Frierson	Testimony
A.B. 345	F	1	Christine Saunders / Progressive Leadership Alliance of Nevada	Testimony
A.B. 345	G	1	Gariety Pruitt / Nevada Conservation League Education Fund	Testimony
A.B. 345	H	1	Joe Gloria / Clark County	Testimony
A.B. 345	I	2	Melody Judilla / Silver State Voices	Testimony of Emily Persaud-Zamora
A.B. 345	J	1	Cecia Alvarado / Mi Familia Vota	Testimony
A.B. 345	K	6	Michael Willoughby	Testimony
A.B. 345	L	1	Aubrey Rowlatt / Carson City	Testimony
A.B. 345	M	3	Wayne Thorley / Secretary of State's Office	Testimony