

1 AARON D. FORD
Attorney General
2 LAENA ST-JULES (Bar No. 15156)
Deputy Attorney General
3 Office of the Attorney General
100 North Carson Street
4 Carson City, NV 89701-4717
T: (775) 684-1265
5 F: (775) 684-1108
E: lstjules@ag.nv.gov
6

7 *Attorneys for Defendants*

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9 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR CARSON CITY**

11
12 NEVADA REPUBLICAN PARTY,
13 Plaintiff,

Case No.: 230C000511B

Dept. No. I

14 vs.

15 STATE OF NEVADA; FRANCISCO
AGUILAR, in his official capacity as
16 Nevada Secretary of State

17 Defendants.

18 **DEFENDANTS' OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION**

19 Defendants the State of Nevada and Francisco Aguilar, in his official capacity as
20 Nevada Secretary of State, by and through counsel, Nevada Attorney General Aaron D.
21 Ford and Deputy Attorney General Laena St-Jules, hereby file Defendants' Opposition to
22 Plaintiff the Nevada Republican Party's ("NV GOP") Motion for Preliminary Injunction
23 ("Motion"). This Opposition is based upon the attached Memorandum of Points and
24 Authorities and the pleadings and papers on file herein.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

In 2021, the Legislature adopted a procedure for major political party¹ candidates to participate in a non-binding presidential primary election (“PPP election”). The NV GOP contends that the PPP election process violates its and its members’ First and Fourteenth Amendment freedom of association rights. Mot. at 2, 4; Compl. ¶ 31. Through its Motion, the NV GOP seeks to preliminarily enjoin the Defendants from enforcing the PPP election against it. *Id.* at 9. The Court should deny the Motion.

The NV GOP is unlikely to succeed on the merits of its claims because the non-binding PPP election process does not in any way impact the NV GOP’s ability to select its presidential nominees. As a result, the NV GOP will not suffer any irreparable harm should the non-binding PPP election process go forward. Instead, the public would suffer harm if it were not allowed to participate in the PPP election process, which gives members of the public a greater opportunity to make their voices heard through an inclusive, safe, and secure process.

II. BACKGROUND

This lawsuit concerns provisions of Assembly Bill 126, adopted by the 81st Legislative Session (“AB 126”), that establish the PPP election process. *See, e.g.*, Mot. at 2–6; Compl. ¶¶ 16–21. The NV GOP, however, also raises a different bill, Senate Bill 292 of the 81st Legislative Session (“SB 292”). *See, e.g.*, Mot. at 2–6; Compl. ¶¶ 9–13. The NV GOP’s allegation that the PPP election is unconstitutional is rooted primarily in an examination of SB 292’s legislative history. *See* Mot. at 4–6. When a statute’s meaning is clear on its face, the court does not go beyond it. *State v. Lucero*, 127 Nev. 92, 95, 249 P.3d 1226, 1228 (2011). Thus, legislative history is only available to assist in the interpretation of ambiguous statutes. *Id.* However, the NV GOP does not allege that the statutes enacting the PPP election are ambiguous. Furthermore, the NV GOP offers no citation supporting

¹ NRS 293.128 sets out the procedure for a political party to qualify as a major political party. NRS 293.0655; NRS 293.128. At this time, only two parties in Nevada are qualified as major political parties: the NV GOP and the Democratic Party of the State of Nevada.

1 the use of legislative history of a different statute, SB 292, to interpret the PPP election
2 process. The NV GOP's references to and attachment of legislative history of SB 292 should
3 be disregarded. Notwithstanding that citations to SB 292 are inapposite and without
4 waiving any objections, as SBS 292 is a cornerstone of the NV GOP's unconstitutionality
5 argument, Defendants address it below.

6 **A. Senate Bill 292**

7 Prior to their repeal through SB 292, NRS 293.130–163 governed aspects of the
8 conduct of major political parties. Under the repealed statutes, major political parties were
9 required to hold county conventions to be attended by delegates selected based on voting
10 precincts at open and public precinct meetings of registered voters. NRS 293.130–137
11 (repealed 2021). The repealed statutes also set requirements on the selection of delegates
12 to the party's state convention, rules for the organization and conduct of county
13 conventions, requirements for the composition of members of the state central committee,
14 prohibitions on the qualifications and voting of delegates to any convention, and rules for
15 membership for state and county central committeemen and committeewomen. NRS
16 293.140–157 (repealed 2021). The statutes further governed the election and powers of
17 officers and the executive committee and limited state and county conventions during
18 presidential election years. NRS 293.160 (repealed 2021); NRS 293.163 (repealed 2021).
19 And the statutes required state central committees to adopt certain written rules. NRS
20 293.137(5) (repealed 2021). Those statutes were never declared unconstitutional and were
21 not under challenge when legislation was introduced to repeal them.

22 However, notwithstanding their uncontested status, in 2021, through SB 292, the
23 Legislature repealed these provisions. During a May 25, 2021 meeting of the Assembly
24 Committee on Legislative Operations and Elections discussing SB 292, some speakers
25 expressed the belief or concern that NRS 293.130–163 were unconstitutional, particularly
26 in light of the Supreme Court's decision in *Democratic Party of United States v. Wisconsin*
27 *ex rel. La Follette*, 450 U.S. 107 (1981). See Mot. Ex. 1 at 10, 12–13. Because the statutes
28 were never held unconstitutional, their repeal makes their constitutionality a purely

1 academic question.

2 **B. Assembly Bill 126**

3 Also in 2021, the Legislature adopted AB 126. As relevant here, AB 126 establishes
4 a process for major political party candidates to participate in a PPP election. That process
5 is codified in NRS 298.600–720. The rules require a PPP election, paid for by the State, to
6 be held on the first Tuesday in February of each presidential election year if two or more
7 qualified candidates of a major political party file declarations of candidacy with the
8 Secretary of State between October 1 and October 15 of the year preceding the PPP election.
9 NRS 298.650–660; NRS 298.710. If no qualified candidate or only one qualified candidate
10 from a major political party files a declaration of candidacy, no PPP election will be held
11 for that major political party. NRS 298.650(2). If a PPP election is held, the counties
12 administer the election. NRS 298.690–700. The county clerks must distribute sample
13 ballots, establish polling places for early and day-of voting, and permit voting by mail ballot
14 or military-overseas ballot. NRS 298.690(1).

15 The results of any PPP election are not binding on a major political party. NRS
16 298.720 details what happens after the election: the counties must canvass the returns,
17 the Secretary of State must compile the returns, the Secretary of State must make out and
18 file an abstract of the returns, and the Secretary of State must certify the number of votes
19 received by each qualified candidate to the major political party's state central and national
20 committees. There are no further requirements. The major political party's state central
21 and national committees are free to afford whatever weight they choose to the results of
22 the PPP election. Throughout the entire PPP election process, no major political party is
23 required to do anything or be bound by any results. The statutes governing PPP elections
24 therefore differ dramatically from the statutes that SB 292 repealed.

25 **C. This Lawsuit**

26 The core of the NV GOP's argument in this lawsuit is that the PPP election process
27 adopted through AB 126 is an unconstitutional infringement on its and its members' rights
28 of freedom of association. *See* Mot. at 2, 4–6; Compl. ¶ 31. The NV GOP claims that “AB

1 126 will force the NV GOP to use a state-run primary system at the possible exclusion of a
2 party-run caucus system or other permissible method of selection pursuant to its
3 rules/bylaws.” Compl. ¶ 20. On this basis, the NV GOP seeks injunctive, writ, and
4 declaratory relief to preclude Defendants from enforcing the PPP election provisions
5 against it, or, in the alternative, a declaration that the results of the PPP election are not
6 binding against it. *Id.* ¶¶ 24–41.

7 III. LEGAL STANDARDS

8 “[I]njunctive relief is extraordinary relief.” *Dep’t of Conservation & Nat. Res., Div.*
9 *of Water Res. v. Foley*, 121 Nev. 77, 80, 109 P.3d 760, 762 (2005). A preliminary injunction
10 is an “extraordinary remedy that may only be awarded upon clear showing that the plaintiff
11 is entitled to such relief.” *Winter v. Nat. Res. Defense Council, Inc.*, 555 U.S. 7, 22 (2008);
12 *see also* NRS 33.010(1). An applicant for a preliminary injunction must show “(1) a
13 likelihood of success on the merits; and (2) a reasonable probability that the non-moving
14 party’s conduct, if allowed to continue, will cause irreparable harm for which compensatory
15 damage is an inadequate remedy.” *Univ. & Cmty. Coll. Sys. of Nevada v. Nevadans for*
16 *Sound Gov’t*, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004). Additionally, courts “weigh the
17 potential hardships to the relative parties and others, and the public interest.” *Id.* In cases
18 like this one, where the party opposing injunctive relief is a government entity, the
19 potential hardship and the public interest considerations are merged. *See Nken v. Holder*,
20 556 U.S. 418, 435 (2009).

21 IV. ARGUMENT

22 The NV GOP has failed to establish its entitlement to a preliminary injunction, and
23 its Motion should therefore be denied.

24 A. The NV GOP Is not Likely to Succeed on the Merits of its Claims

25 The NV GOP focuses its argument that the PPP election process is unconstitutional
26 on statements made during the adoption hearings of SB 292 that certain provisions
27 governing major political parties may be or were unconstitutional. Mot. at 2–6. This is not
28 an apples-to-apples comparison. Whereas SB 292 repealed provisions that “regulate[d] the

1 inner workings, processes, or structure of political parties,” Compl. ¶ 13, the challenged
2 PPP election process of AB 126 only establishes a non-binding primary election process.
3 This distinction is critical; the provisions of Nevada law giving rise to the constitutional
4 concerns expressed in the SB 292 testimony are entirely absent from AB 126. AB 126
5 contains no requirements governing the inner workings of a political party. Instead, the
6 challenged portions of AB 126 merely establish a non-binding primary election process.
7 The NV GOP does not point to any specific provision of AB 126 as problematic.

8 The Supreme Court has addressed freedom of association in the context of political
9 parties on multiple occasions and has held that the First and Fourteenth Amendments
10 protect the “freedom to associate with others for the common advancement of political
11 beliefs and ideas.” *Kusper v. Pontikes*, 414 U.S. 51, 56–57 (1973); *see also La Follette*, 450
12 U.S. at 122. The Court has also recognized “the special place the First Amendment reserves
13 for, and the special protection it accords, the process by which a political party ‘selects a
14 standard bearer who best represents the party’s ideologies and preferences.” *Cal.*
15 *Democratic Party v. Jones*, 530 U.S. 567, 575 (2000) (citation omitted).

16 In determining whether a state’s law violates the freedom of association relating to
17 selecting a presidential candidate, the Supreme Court has scrutinized the effect the law
18 has on a party’s ability to direct its own affairs and choose its candidate. In *Jones*, for
19 example, the Supreme Court held unconstitutional a law requiring that a qualified political
20 party presidential candidate for the general election be selected through a blanket open
21 primary, outside any delegate process. *See id.* at 569–70, 586 (2000). In *La Folette*, the
22 Supreme Court held that Wisconsin could not bind the National Democratic Party to accept
23 state delegates elected in an open primary election when the Party’s rules provided that
24 delegates be chosen through a closed process. *Id.* at 109, 120, 125–26. In *Tashjian v.*
25 *Republican Party of Connecticut*, the Supreme Court found unconstitutional a state law
26 requiring a closed primary despite the party’s rules calling for a semi-open primary. *Id.*,
27 479 U.S. 208, 210–11, 225 (1986). And in *Cousins v. Wigoda*, the Supreme Court reversed
28 a judgment that a state law that was contrary to party rules for delegate selection governed

1 the seating of delegates to a convention. *Id.*, 419 U.S. 477, 479, 491 (1975).

2 In each of these cases, the challenged state law limited in some way a party's ability
3 to determine its presidential candidate. The PPP election process contains no similar
4 limitation. The NV GOP is free to select its own method for determining its candidate of
5 choice, major political party candidates for President of the United States are free to decide
6 whether to participate in a PPP election, and voters are free to choose not to participate in
7 a PPP election. The NV GOP also has not identified any party rule or Nevada statute that
8 is in conflict. There is, consequently, no impact on any major political party's candidate-
9 selection process. Under these circumstances, there is no constitutional violation.²

10 The NV GOP is therefore unlikely to succeed on the merits of its claims. The NV
11 GOP's claim for declaratory relief cannot succeed because there is no justiciable
12 controversy. *Doe v. Bryan*, 102 Nev. 523, 525, 728 P.3d 443, 444 (1986). Because the PPP
13 election is non-binding and does not require the NV GOP, any candidate, or any voter to do
14 anything, there is no "concrete dispute admitting of an immediate and definitive
15 determination of the parties' rights." *Id.* (citation omitted).

16 The writ of prohibition claim is likely to fail because, as the NV GOP appears to
17 concede, there is an adequate remedy at law. NRS 34.330; Mot. at 5. The NV GOP argues
18 that a court may entertain a petition for a writ of prohibition where there is an adequate
19 remedy at law if there is an important issue of law that needs clarification. Mot. at 5-6
20 (quoting *State v. Second Judicial Dist. Court ex rel. County of Washoe*, 118 Nev. 609, 615,
21 55 P.3d 420, 423 (2002)). However, as discussed above, it is clear that the PPP election
22 process does not violate any constitutional right and there is consequently no important
23 legal issue in need of clarification.

24 The NV GOP is also unlikely to succeed on its request for injunctive relief because
25 injunctive relief is a remedy, not a standalone cause of action. *State Farm Mut. Auto. Ins.*
26 *Co. v. Jafbros Inc.*, 109 Nev. 926, 928, 860 P.2d 176, 178 (1993) (explaining that the

27
28 ² Even if the results of the PPP election were binding on a party, that alone would not establish a constitutional violation. As the Supreme Court has explained, "[i]t is too plain for argument . . . that the State . . . may insist that intraparty competition be settled before the general election by primary election or by party convention." *Am. Party of Tex. v. White*, 415 U.S. 767, 781 (1974).

1 “existence of a right violated is a prerequisite to the granting of an injunction” and “an
2 injunction will not issue ‘to restrain an act which does not give rise to a cause of action’”);
3 *Shell Oil Co. v. Richter*, 52 Cal. App. 2d 165, 168, 125 P.2d 930, 932 (Cal. App. 1942)
4 (“Injunctive relief is a remedy and not, in itself, a cause of action, and a cause of action
5 must exist before injunctive relief may be granted.”). Because the NV GOP’s declaratory
6 and writ relief claims likely fail and because there is no constitutional violation, injunctive
7 relief likely cannot be granted as a remedy.

8 Finally, for all claims, the NV GOP is unlikely to be able to establish standing. In
9 cases challenging the constitutionality of a statute, “a requirement of standing is that the
10 litigant personally suffer injury that can be fairly traced to the allegedly unconstitutional
11 statute.” *Elley v. Stephens*, 104 Nev. 413, 416, 760 P.2d 768 (1988). The NV GOP indicates
12 that its grievance is that the PPP election process would “interfere with a political party’s
13 processes for selecting presidential candidates.” Mot. at 6. But the PPP election process is
14 not binding on any major political party, and the NV GOP therefore likely cannot establish
15 a personal injury to support standing.

16 **B. The NV GOP Has not Identified any Irreparable Harm**

17 The NV GOP argues that it would suffer irreparable harm because it “would be
18 forced to use a state-run primary system instead of the caucus system that has been used
19 for years” and it is “being precluded from using any other permissible method of selection
20 pursuant to [its] bylaws.” Mot. at 7. However, the PPP election is not binding and does
21 not prevent the NV GOP from selecting its presidential candidate through the method of
22 its choice. Nor is there any guarantee that a PPP election would be held for NV GOP
23 candidates; a PPP election can only go forward if two or more qualified NV GOP candidates
24 timely file declarations of candidacy. NRS 298.650(2). The NV GOP has therefore not
25 articulated any irreparable harm to support its request for a preliminary injunction.

26 The NV GOP’s delay in bringing this action also counsels against a finding of
27 irreparable harm. See *Garcia v. Google, Inc.*, 786 F.3d 733, 746 (9th Cir. 2015) (finding
28 delay of months undercut argument of irreparable harm); *Oakland Tribune, Inc. v.*

1 *Chronicle Publ'g Co.*, 762 F.2d 1374, 1377 (9th Cir. 1985) (“Plaintiff’s long delay before
2 seeking a preliminary injunction implies a lack of urgency and irreparable harm.”); *Fund*
3 *for Animals v. Frizzell*, 530 F.2d 982, 987 (D.C. Cir. 1975) (finding a 44-day delay in seeking
4 injunctive relief to be “inexcusable”). AB 126 was signed into law on June 11, 2021, but the
5 NV GOP waited nearly two years before bringing this action, undermining any argument
6 of irreparable harm.

7 **C. The Public Interest Warrants Denial of the Motion**

8 Even if the NV GOP were likely to succeed on the merits and demonstrate it would
9 suffer irreparable harm, the Court may still decline the request for a preliminary injunction
10 based on the potential hardships to the parties and the considerations of the public interest.
11 *See Univ. & Comm. College Sys. of Nevada*, 120 Nev. at 721, 100 P.3d at 187. Here, the
12 interests of the public weigh heavily against a preliminary injunction.

13 Voting by ballot provides voters with more security and confidence. In the caucus
14 system, votes are cast publicly, which can lead to intimidation and harassment. The PPP
15 election process would allow voters to maintain the secrecy of their ballot and candidate
16 selections. And because the counties would be tabulating the results, the PPP election
17 process would help to preserve the overall integrity of the election process.

18 Moreover, in adopting AB 126, the Legislature considered clear public benefits to
19 holding a primary election. A PPP election would encourage voter participation. Ex. 1,
20 Excerpts of Minutes of Apr. 8, 2021 Meeting of Assembly Committee on legislative
21 Operations and Elections (“Ex. 1”) at 3; Ex. 2, Excerpts of Minutes of May 29, 2021 Hearing
22 of Senate Committee on Finance (“Ex. 2”) at 16. The PPP election process provides for early
23 and day-of election polling places and for votes to be cast by mail and military-overseas
24 ballot. NRS 298.690(1). Voters therefore would have a better chance to have their voices
25 heard as they would not be required to attend a lengthy, single-day caucus, perhaps in a
26 remote area. *See* Ex. 1 at 4–11; Ex. 2 at 18–23. A PPP election would also simplify the
27 process; caucuses can be hard for voters to understand, especially for those with a language
28 barrier, but an easier process would encourage voters to participate. *Id.*

1 Finally, the Legislature chose to schedule the PPP election to put Nevada in a
2 position to be the first state in the nation to declare its primary election results. Ex. 1 at
3 2-4; Ex. 2 at 16-17. Nevada's diverse population is an important representation of the
4 makeup of the entire country, and holding the presidential primary elections earlier
5 elevates the voices of Nevadans in selecting who should lead the country. *Id.*

6 A preliminary injunction would prevent Nevadans from potentially participating in
7 a secure, more inclusive election process designed to elevate their voices. These
8 considerations weigh strongly against granting the NV GOP's requested relief.

9 **V. CONCLUSION**

10 For the foregoing reasons, the Court should deny the NV GOP's motion for
11 preliminary injunction.

12 **AFFIRMATION**

13 The undersigned does hereby affirm that the document entitled Defendants'
14 Opposition to Motion for Preliminary Injunction does not contain personal information as
15 defined in NRS 239B.030(4), and further acknowledges that an affirmation will only be
16 provided on any additional documents if the document does contain personal information.

17 DATED this 15th day of June 2023.

18 AARON D. FORD
19 Attorney General

20 By: 

21 LAENA ST-JULES (Bar No. 15156) #10159
22 Deputy Attorney General fu
23 Office of the Attorney General
24 100 North Carson Street
25 Carson City, NV 89701-4717
26 T: (775) 684-1265
27 F: (775) 684-1108
28 E: lstjules@ag.nv.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 16TH day of June 2023, I served a true and correct copy of the foregoing DEFENDANTS' OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION by placing said document in the U.S. Mail, postage prepaid, addressed to:

Sigal Chattah, Esq.
CHATTAH LAW GROUP
5875 S. Rainbow Blvd. #204
Las Vegas, NV 89118
T: (702) 360-6200
F: (702) 643-6292



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EXHIBIT 1

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EXHIBIT 1

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

**Eighty-First Session
April 8, 2021**

The Committee on Legislative Operations and Elections was called to order by Chair Brittney Miller at 4:08 p.m. on Thursday, April 8, 2021, Online. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

COMMITTEE MEMBERS PRESENT:

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

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Pepper Sturm, Committee Policy Analyst
Kathleen M. Norris, Committee Counsel
Bonnie Borda Hoffecker, Committee Manager
Jordan Green, Committee Secretary
Trinity Thom, Committee Assistant

Minutes ID: 726



OTHERS PRESENT:

Dakota Miller, Private Citizen, Las Vegas, Nevada
Nicholas Shepack, Program and Policy Associate, American Civil Liberties Union of Nevada
Annette Magnus, Executive Director, Battle Born Progress
Quentin M. Savwoir, Deputy Director, Make It Work Nevada
Jim Sullivan, Political Director, Culinary Workers Union Local 226
Emily Persaud-Zamora, Executive Director, Silver State Voices
Dawn Etcheverry, Vice President, Nevada State Education Association
Leonard B. Jackson, Executive Director, Faith Organizing Alliance
Tracey Thomas, Private Citizen, Sparks, Nevada
Alex Goff, Private Citizen, Reno, Nevada
Taylor Patterson, Executive Director, Native Voters Alliance Nevada
Maria Nieto Orta, Nevada State Coordinator, Mi Familia Vota
Verania Rebolledo, Organizer, Make the Road Nevada
Artie Blanco, Private Citizen, Las Vegas, Nevada
Aldo Pardo, Private Citizen, Las Vegas, Nevada
Aria Flores, Las Vegas Area Director, Chispa Nevada
Kerry Durmick, Nevada State Director, All Voting is Local
Oved Gutierrez, Private Citizen, Reno, Nevada
Anwar Green, Private Citizen, Henderson, Nevada
Lucy Gonzales, Private Citizen
Jim DeGraffenreid, National Committeeman, Nevada Republican Party

Chair Miller:

[Roll was called. Committee rules and protocol were explained.] We have two bills scheduled for hearings today. For each bill, I will take up to 30 minutes of testimony in support and in opposition. I would like to move the agenda around a bit by taking Assembly Bill 126 first, doing our work session, and then hearing Assembly Bill 390.

With that, I would like to open the hearing on Assembly Bill 126. This measure is sponsored by Assemblyman Jason Frierson, and it provides for a presidential primary.

Assembly Bill 126: Provides for presidential preference primary election. (BDR 24-99)

Assemblyman Jason Frierson, Assembly District No. 8:

I am here today to present Assembly Bill 126, which would move Nevada to be the first state in the nation in the presidential nominating process and change our current presidential nominating process, the caucus, to a primary. The question is: Why should Nevada have the first say when it comes to nominating candidates for President?

As Nevadans, we know how unique our state is. Our diverse population better represents that of the rest of the country, yet our state is small enough for more of our voices to be heard by those vying for the highest elected office in the land. Also, the issues that are shaping our

best in the country, to take into account their experiences and implementation. That is reflected not only in the bill but certainly the amendment that was provided. With that, I am happy to take any questions the Committee may have.

Chair Miller:

Committee members, do we have any questions?

Assemblywoman Dickman:

Is there a plan for when New Hampshire moves its primary to be before ours? There are a couple of states that have made it clear they are moving if we go first.

Assemblyman Frierson:

I am not a legislator in New Hampshire, Iowa, or any of the other states that have historically gone early, but I know that Nevada better represents the population of the country than those states do.

We meet for 120 days every other session, and we are certainly not able to have a moving scale the way some states do. Our job is to make our case—not just to the Republican National Committee and the Democratic National Committee, but also to those other states.

I also think it is important that we make our case to candidates. I think that it would behoove candidates to pitch their positions and make their cases before a state's population that reflects largely what the country looks like. Through that collaboration and communication, we would hope to make our case that Nevada is small enough and manageable enough, yet diverse enough, to give candidates an opportunity to make their cases not only to a diverse demographic but also to a state that handles diverse issues, as I stated earlier. We will work with our election officials in the state and across the country to make our case. I cannot control what other states do. This bill does not incorporate a moving target for a date.

Assemblywoman Dickman:

That is what I wondered: once it is in NRS, that is the date.

Chair Miller:

Are there any additional questions? [There were none.] Let us open it up to those who would like to testify in support of A.B. 126. We will take up to 30 minutes for testimony in support.

Dakota Miller, Private Citizen, Las Vegas, Nevada:

I am a first responder and a constituent of Assembly District No. 18. I am calling in support of A.B. 126 because caucuses are confusing and inaccessible to working folks who cannot commit several hours, and the bill would make Nevada first and best in the West. Thank you.

Nicholas Shepack, Program and Policy Associate, American Civil Liberties Union of Nevada:

We want to thank Speaker Frierson for bringing this overdue and very important bill. The current caucus system is a messy, confusing system that appears to have been designed to deter participation. Every elector should have a say in nominating his or her party's candidate, and the caucus system does not give that.

I have seen firsthand the chaos that is the caucus system in this state working as a precinct captain. I have seen caucus organizers doing their best but failing to understand voter registration laws. I have seen caucus locations run out of registration forms, delaying the caucus for hours.

My father, who delivered mail through the United States Postal Service, has had to take hours off of work in the middle of delivering a route to attend a caucus in which only four other people in his precinct showed up. He then had to finish his route, returning home well after dark, exhausted and frustrated. This is not how voting should be. The system is silly at best. It is not conducive to working-class people, people with disabilities, or older adults. In a traditional primary, these individuals can vote quickly and conveniently.

The state continues to work hard to increase access to the polls by expanding early voting and polling locations. Even with these changes, voting remains challenging for some. While I personally may miss arguing with a small group of strangers who live in my general area over who is the best candidate for the party, we have social media that can scratch that itch. Untold thousands of Nevadans will benefit from a traditional primary system, and we should do everything we can to encourage participation in the process. Please support this important piece of legislation.

Annette Magnus, Executive Director, Battle Born Progress:

We are here in support of A.B. 126. It is time to make this process more accessible for our growing electorate on all sides of the aisle by moving to a presidential preference primary system proposed by this bill to give oversight of the presidential primary process to the Secretary of State and county clerks. This provides assurance to voters that their votes will be tabulated by an unbiased, public third party, increasing confidence in the primary system.

Furthermore, the simplicity and efficiency of a presidential preference primary avoids the confusion sometimes created by the caucus process, which can be esoteric for some voters who are not overly knowledgeable about the rules and counting procedures. More confidence and easier process means greater participation, which is good for our democracy.

Assembly Bill 126 also sets rules for polling locations during the presidential preference primary to include at least ten days of early voting and longer hours of operation to ensure as many eligible voters have a chance to participate as possible. All of this makes for more secure and accessible primary elections for Nevada voters. We thank Speaker Frierson, Majority Leader Benitez-Thompson, and Chair Miller for their work on this measure. Please support A.B. 126. Thank you for your time.

Quentin M. Savvoir, Deputy Director, Make It Work Nevada:

So much of our work is anchored around public education and keeping our communities fully abreast of all the happenings that would directly impact our communities and our day-to-day lives. During the 2020 election, we threw this public education into overdrive to ensure that our community members were able to use their voices at every single turn. Admittedly, explaining the caucus process to individuals and families who are not routinely engaged in the electoral process was especially challenging. It was hard getting people to understand the rules associated with going to a particular precinct when just two years prior we were explaining to community members that they could go to any vote center. As well, it was complicated explaining to community members this concept of "viability" and why it was important for them to have a second and, in some cases, a third or fourth choice pick.

Participating in democracy should not be a formulaic science. It should be accessible and standardized so that all Nevadans know what to expect when it is time to use our voices in choosing our elected leaders. Assembly Bill 126 will eliminate a great deal of the arbitrary rules and deadlines associated with the caucus process. It will also put to bed this antiquated process of caucusing that does not seem to serve the era and time that we are living in. Passing this legislation will propel Nevada forward in welcoming more people into the process of selecting future presidential candidates, and it will also aptly position us to become the first state in the country to select presidential candidates. We urge bipartisan support for A.B. 126. Thank you.

Jim Sullivan, Political Director, Culinary Workers Union Local 226:

The Culinary Workers Union supports A.B. 126, which will establish a primary election in lieu of a state caucus. In the 2020 Democratic Presidential Election, the majority of the caucus participants chose to early vote rather than to participate on caucus day. The Culinary Union hosted an early vote site for the first time in 85 years for Culinary Union and community members to participate in this democratic process. The Culinary Union mobilized members and their families to vote early. We are proud that over 2,500 Nevadans cast their ballots in four days at the Culinary Union early vote site location. In addition, several Las Vegas Strip casinos hosted 24-hour voting sites, which gave workers the option to vote at their job.

Assembly Bill 126 promotes voting accessibility, encourages voters to participate in the presidential primary election, and simplifies the voting process for all voters. Lastly, Nevada is more representative and reflective of the diversity of our country. As the largest organization of Black, Asian American and Pacific Islander, Latinx, and immigrant workers, the Culinary Union believes that Nevada's diverse communities should be the first in selecting a presidential candidate. The Culinary Union urges the Nevada Legislature to support and pass A.B. 126. Thank you.

Emily Persaud-Zamora, Executive Director, Silver State Voices:

I am calling on behalf of the Let Nevadans Vote coalition. Today we stand in strong support of A.B. 126 because it would make participation in our presidential preference elections much more accessible to everyday Nevadans.

The reality is that while primary elections tend to have lower turnout than general elections, caucuses tend to have the lowest turnout because it leaves a large number of people out of the process. Everyday working Nevadans, which are the communities that we and our partners work with on a daily basis, may not be able to commit to several hours to attend their precinct's caucus. It is simply inaccessible to many Nevadans.

Another issue is the educational component that goes into helping community members familiarize themselves with the caucus system. It is long and complicated; it can be intimidating and discourages many from participating.

Assembly Bill 126 would provide more oversight and transparency, as the elections departments would be responsible for conducting the primaries. The clerks have ample experience conducting elections, and it would keep elections out of the hands of political parties. Thank you to Speaker Frierson for bringing this bill forward and for always advocating that Nevadans' voting systems are equitable and accessible to everyone.

Dawn Etcheverry, Vice President, Nevada State Education Association:

When Nevada hosted the first caucus back in 2008, the Nevada State Education Association and the National Education Association invested money and time in Nevada teaching state residents how to participate in the process. Many hours were spent by trainers traveling the state helping voters and high school seniors learn the Republican and Democratic caucus systems. As one of the members of the team, I will say that we worked tirelessly to make the voters comfortable. Unfortunately, the process is confusing and, for many, uncomfortable.

The Nevada State Education Association supports the return to the primary process. Casting your vote is a privilege. The process should not be hard to understand and must be accessible to all.

Leonard B. Jackson, Executive Director, Faith Organizing Alliance:

Faith Organizing Alliance strives to increase civic participation in the Las Vegas Valley and is a partner of the Let Nevadans Vote coalition. Faith Organizing Alliance is in full support of A.B. 126 because it would preserve Nevada's "First in the West" status and move us even closer to first in the nation.

Nevada is known for being one of the most diverse states in the nation, and that is apparent in our school system, our communities, and at the ballot box. While our state parties have long performed diligent work running the presidential caucus for years, 2020 made it clear that attitudes about the caucus process are changing.

Assembly Bill 126 ensures that the Nevada presidential preference primary is held on the second to the last Tuesday in January of each presidential election year. If another state in the western United States chooses another date before this, the Secretary of State must choose an earlier date after January 2. This means that Nevada stays first and "Best in the West."

With Nevada uniquely situated in the presidential primary process as a diverse state full of working people, our values and our people are deserving to cast their vote among the first states in the cycle. Assembly Bill 126 protects that and even puts in contention to be the first state and the "Best in the West." Thank you.

Tracey Thomas, Private Citizen, Sparks, Nevada:

I pushed the wrong button. I queued too soon.

Alex Goff, Private Citizen, Reno, Nevada:

Thank you to Chair Miller and members of the Committee for taking the time to hear this bill today; thank you to Speaker Frierson and staff for working on A.B. 126 and bringing it before you.

I serve on the Democratic National Committee for our state of Nevada. Giving Nevada's voters a voice to shape the national debate is something that I believe is central to my role, and I look forward to casting the vote to make Nevada first in the nation at the Democratic National Committee.

I urge your support for this bill, and I look forward to working with all of you to see this become a reality. Thank you and have a wonderful day.

Taylor Patterson, Executive Director, Native Voters Alliance Nevada:

I am a member of the Bishop Paiute Tribe. The Native Voters Alliance Nevada is in full support of A.B. 126 because it will be a more inclusive process for all Nevadans, but particularly for Native Americans.

In 2020, we saw the many difficulties associated with the caucus system. Our community, which already experiences low voter turnout, was bogged down by the confusing rules and process. This bill will create an equitable system that all communities can easily participate in. It will also allow tribal governments to request their own polling locations, allowing for further convenience and accessibility for all Natives. Thank you for your time and consideration.

Maria Nieto Orta, Nevada State Coordinator, Mi Familia Vota:

Mi Familia Vota is a nonpartisan organization that strives to improve political efficacy in the Latino community and is a partner of the Let Nevadans Vote coalition. Mi Familia Vota is in full support of A.B. 126 because primaries would make it easier for new citizens to participate in our electoral process.

Assembly Bill 126 is important because the caucus system may be confusing and difficult to maneuver through, especially for first-time voters who have not experienced caucuses before. We are an organization that works closely with your Latino constituencies, and A.B. 126 would be beneficial for the eligible permanent residents who become new citizens, as the electoral process, especially during a presidential election, can be one of the most confusing.

Also, it is important to note that the caucus system is not necessarily accessible for working-class communities who do not always have the time to participate, as they work sometimes two to three jobs to make ends meet or have to watch over their kids to ensure that they are going to school and being fed. When they have other priorities that have to do with staying alive and keeping a roof over their heads, participating in a democratic caucus will not be a top priority.

Assembly Bill 126 will allow people to participate in an equitable way and make sure that they are still meeting all their needs. I urge you to please support A.B. 126. Thank you for your time.

Verania Rebolledo, Organizer, Make the Road Nevada:

Make the Road Nevada is an organization committed to building power amongst our members through organizing, policy innovation, and transformative education. We are also partners of the Let Nevadans Vote coalition.

Make the Road Nevada is in support of A.B. 126 because transitioning back to a direct primary system would make our presidential selection process much more accessible for Latinx and working-class communities across Nevada.

Throughout the year, we constantly engage with our members to ensure that they have the proper resources and are well-prepared to advocate for themselves and to participate civically. Although we make it a priority to help educate them, there are several different civic processes. We found that the entire caucus system is quite a challenge.

During the past election cycle, Make the Road Nevada saw firsthand how confusing the caucus system may be for first-time voters. We held bilingual trainings, phone banks, canvassed our communities, and even caucused early in groups in efforts to increase new voter turnout. Even so, it is extremely intimidating for a majority of our members, especially those whose first language is not English. Beyond the confusing system, it requires people to be able to spend an indeterminate number of hours that often requires them to take time from their work. For several employees, that means losing wages from their work, and families desperately need to stay in budget.

For all these reasons, a direct primary system would make participation in the presidential selection process more accessible for new voters, especially Latinx and working-class Nevadans. That is why we extremely urge you to support A.B. 126. Thank you.

Artie Blanco, Private Citizen, Las Vegas, Nevada:

I am here to testify in support of A.B. 126 as an at-large member of the Democratic National Committee. Nevada's status as a caucus state made sense when we became one of the first four nominating states. We have done a tremendous job to overcome the limitations caucuses historically present, and the state party did incredible work in making the 2020 caucus a huge success. We introduced early voting for the first time ever and made it far more accessible in providing caucus materials and trainings in multiple languages.

As we move forward, it is time to shift to a primary process. Nevada should become the first early state to vote in the 2024 primary for many reasons. A primary will ensure as many Nevadans as possible have the opportunity to participate, which is incredibly important. As a member of the Rules and Bylaws Committee of the Democratic National Committee, I look forward to communicating and showing my colleagues why Nevada deserves to be first in the nation. I commit to working with them and our legislators to do all we must in the 2023 Session should we need to become in compliance.

I thank Speaker Frierson for bringing this bill forward. It is time now for Nevada, as the most diverse state, to become first in the nation. Thank you.

Aldo Pardo, Private Citizen, Las Vegas, Nevada:

I am a constituent of Assembly District No. 15, and I am calling today in support of A.B. 126. I would like to ask Chair Miller and the Committee members to please pass this bill. Thank you.

Aria Flores, Las Vegas Area Director, Chispa Nevada:

I am in strong support of A.B. 126 because, frankly, caucuses are difficult to maneuver through, especially for new voters who have not experienced this before. I saw this firsthand in 2016 when my father participated for the first time. I remember seeing how confused he was, but luckily, I was able to explain the process to him. I have also seen the same confusion in other Latino families where they often bring their children to explain the caucus system to them. When I first participated in the caucus, I noticed that many folks often walked out before casting their vote because not everyone can commit to several hours to attend their precinct caucus. This often leaves first-time Latino voters with the feeling of frustration in our electoral process.

The transition to a primary preference election would make it easier for folks who have a language barrier to engage in our electoral process, and they are far more accessible for working Latino voters who need the flexibility to choose the best date and time to cast their ballot. Also, primary elections ensure there is transparency while also [unintelligible] the voter's right to [unintelligible] ballot. I urge you to support A.B. 126. Thank you for your time.

Kerry Durmick, Nevada State Director, All Voting is Local:

All Voting is Local is a voting rights project housed at The Leadership Conference on Civil and Human Rights. We are also a proud member of the Let Nevadans Vote coalition. All Voting is Local is in full support of A.B. 126.

During a presidential preference primary, those who vote within the contest of the party are registered to vote, will fill out a card with their choice indicating their preference, and simply cast their vote. The hassle, time, and sometimes obscure rules around the caucus process can be left in the past in favor of this simpler and more accessible system for voters who are new and old. Oversight of the process by the Secretary of State and county clerks provides

assurance to voters that their votes will be tabulated by an unbiased, public third party, increasing confidence in the system.

Additionally, [section 48 of] Assembly Bill 126 would require polling locations that must be active ten days before the election through the Friday before the day of the presidential primary election. Voters will be able to vote early, in-person, on Sundays or federal holidays, and hours of operation for locations must be eight hours Monday through Friday and at least four hours on Saturday.

Nevadans need to ensure that we are protecting everyone's right and freedom to vote. This bill would give Nevadans a better option to make their voices heard and cast their ballots in a safe way. All Voting is Local asks the Committee to support A.B. 126. Thank you for your time.

Oved Gutierrez, Private Citizen, Reno, Nevada:

I am a voter of Assembly District No. 31; Assemblywoman Dickman is actually my representative. I voted in the last election. I am calling today in support of A.B. 126. Please pass this bill. Thank you.

Anwar Green, Private Citizen, Henderson, Nevada:

I am a constituent of Assembly District No. 16, I am here in support of A.B. 126 because it is time to make this process more accessible for our growing electorate on all sides of the aisle.

Moving to a presidential preference primary system provides assurance to voters that their votes are being counted by an unbiased and public third party, which increases confidence in the primary system. Additionally, the simplicity and the efficiency of a presidential preference primary helps to eliminate the confusion that is sometimes created by the caucus process. That helps to instill voter confidence, which means greater participation, which is good for our democracy at the end of the day.

Assembly Bill 126 makes for more secure and accessible primary elections for Nevada voters. For that, I would like to thank Speaker Frierson, Majority Leader Benitez-Thompson, and Chair Miller for their work on this measure. I urge you guys to please support A.B. 126. Thank you for your time.

Chair Miller:

We have now completed 30 minutes of testimony in support, so I will close testimony for that position.

[Exhibit D and Exhibit E were submitted in support of A.B. 126 but not discussed and are included as part of the record.]

Is there anyone who wishes to testify in opposition to A.B. 126?

Lucy Gonzales, Private Citizen:

I oppose A.B. 126. It is too costly for our state. There is no need for a third election. The primary elections already meet the needs of this bill.

I realize as a nonpartisan Nevadan our comments do not matter because the committees are already just voting along party lines. Do not be fooled by this wolf in sheep's clothing. The authors are merely trying to manipulate you and our elections by providing yet another opportunity for bad actors on both sides to compromise the integrity of our elections. They want to encourage voters to switch parties with same-day registration, so they can infiltrate their opponents' closed elections in order to pick the worst candidates and eliminate viable competition to their own party's candidates.

Caucuses were reengaged to weed out bad actors wishing to corrupt our primary. Presidential primaries are just another ploy to undermine the accurate reflection of the true will of the party, no matter which side of the aisle. This is just another power grab for Clark County to further disenfranchise the 16 other counties in Nevada.

The third revision was supposed to be there, but there are no amendments posted to the Nevada Electronic Legislative Information System, so who knows what is really in this bill.

Scripture tells us to refrain from using your freedom to cover up for evil. Educate instead of our current processes. Please reject this bill for the evil it is attempting to inflict.

Jim DeGraffenreid, National Committeeman, Nevada Republican Party:

I am in opposition to this bill. With just three exceptions, Nevada has used the caucus system for the last 75 years ["Selection of Presidential Nominees in Nevada Fact Sheet," February 2016, prepared by Carol M. Stonefield, Research Division, Legislative Counsel Bureau]. Although, for most of this time, we were irrelevant to the presidential selection process because it happened after the nominee was already determined.

However, in 2008, we joined Iowa, New Hampshire, and South Carolina as early states, and suddenly the caucus was very popular. With greatly increased attendance, we had a learning curve on how to run an inclusive caucus, but Republicans have improved our process every year. By 2016, participation in our caucus was 17.8 percent of registered Republicans, which was almost the same as the 18.5 percent participation rate in the primary election that year. We include absentee voting for military members as well as vote-and-go voting options to maximize participation and eliminate confusion.

The fiscal notes estimate the cost of a primary election at well over \$5 million. Given the post-pandemic budget situation in Nevada, we do not believe this is a good use of state resources, particularly when our party has demonstrated the ability to hold a successful caucus with participation rivaling that of a primary election.

In the past, there has been legislation to allow parties to determine how they prefer to select their nominee. Under such a law [Assembly Bill 695 of the 68th Session], in 1996,

Republicans held a primary election while Democrats stayed with the normal caucus process. Leaving us the choice of how to nominate our own candidates is far more fair than having the state dictate that we abandon a fair and inclusive process.

The biggest problem with this bill is that it violates party rules on when caucuses and primaries can be held. Both parties have rules that prohibit caucuses or primaries in any state before the first Tuesday in March, with the exception of the four carve-out states. Under Rule No. 16 of *The Rules of the Republican Party*, we cannot hold our caucus more than one month prior to the first Tuesday in March.

Democratic Party rules are much more restrictive. Rule No. 12 [of the *Delegate Selection Rules for the 2020 Democratic National Convention*] states that Nevada may not hold its caucus earlier than ten days prior to the first Tuesday in March. Rule No. 22 is three paragraphs long and is very specific that Democratic state parties are to take every possible step . . . [Allotted time was exceeded.]

Chair Miller:

Sir, that is your time. You are free to submit the remainder of your remarks for the record, please.

[There were no more callers in opposition.]

[Exhibit F was submitted in opposition to A.B. 126 but not discussed and is included as part of the record.]

Is there anyone wishing to testify in neutral? [There was no one.]

[Exhibit G and Exhibit H were submitted but not discussed and are included as part of the record.]

Speaker Frierson, would you like to make any final remarks?

Assemblyman Frierson:

I appreciate the discussion and the input. I do believe that changing from a caucus to a primary would absolutely serve a purpose of allowing more people to participate and be heard without the process of having a caucus that is largely a pep rally. I think normal voters have been increasingly discouraged from participating in that process. I would be more than happy to answer any questions after the hearing, but I urge the Committee's support.

Chair Miller:

With that, I will go ahead and close the hearing on Assembly Bill 126. I would like to open our work session because I know we have Committee members who are leaving for other hearings at 6 o'clock, and I want to make sure that we have a quorum for our work session. Mr. Sturm, please begin with Assembly Bill 129 and take us through our work session documents.

EXHIBIT 2

RETRIEVED FROM DEMOCRACYDOCKET.COM

EXHIBIT 2

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Eighty-first Session
May 29, 2021**

The Senate Committee on Finance was called to order by Chair Chris Brooks at 9:22 a.m. on Saturday, May 29, 2021, Online and in Room 1214 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Chris Brooks, Chair
Senator Moises Denis, Vice Chair
Senator Julia Ratti
Senator Nicole J. Cannizzaro
Senator Marilyn Dondero Loop
Senator Ben Kieckhefer
Senator Pete Goicoechea
Senator Scott Hammond
Senator Heidi Seevers Gansert

GUEST LEGISLATORS PRESENT:

Senator James Ohrenschall, Senatorial District No. 21
Assemblyman Jason Frierson, Assembly District No. 8
Assemblyman C.H. Miller, Assembly District No. 7
Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1
Assemblywoman Selena Torres, Assembly District No. 3
Assemblyman Steve Yeager, Assembly District No. 9

STAFF MEMBERS PRESENT:

Wayne Thorley, Senate Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Brenda Erdoes, Director, Legislative Counsel Bureau
Barbara Williams, Committee Secretary

OTHERS PRESENT:

Scot Rutledge, Chamber of Cannabis
Tyler Klimas, Executive Director, Nevada Cannabis Compliance Board,
Department of Taxation
Chris Anderson, Parallel
Terri Upton, Deputy Director, Compliance, Department of Taxation
Annette Magnus, Executive Director, Battle Born Progress
Will Adler, Sierra Cannabis Coalition
Layke Martin, Executive Director, Nevada Dispensary Association
Bob Groesbeck, Co-Chief Executive Officer, Planet 13 Holdings
Briana Padilla, Director of Communication, Chamber of Cannabis
Marla McDade Williams, CPCM Holdings; National Vote at Home Coalition
Mark Wlaschin, Deputy for Elections, Office of the Secretary of State
Shane Piccinini, Nevada Center for Civic Engagement; Food Bank of Northern
Nevada
Emily Persaud-Zamora, Executive Director, Silver State Voices
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
Jim Sullivan, Culinary Workers Union Local 226
Duy Nguyen, Chief Operating Officer, Asian Community Development Council;
One APIA Nevada
Ben Challinor, Faith in Action Nevada
Bailey Bortolin, Washoe Legal Services
Chris Daly, Nevada State Education Association
Jennifer Fleischmann, Make the Road Nevada
Alyssa Cortes, Silver State Equality
Jonnette Paddy, Native Voters Alliance Nevada
Cecia Alvarado, Executive Director, Mi Familia Vota
Ida Gaines, National Coalition of 100 Black Women Las Vegas Chapter
Aria Flores, Chispa Nevada
Leonard Jackson, Faith Organizing Alliance
Quentin Savvoir, Deputy Director, Make It Work Nevada
Holly Welborn, American Civil Liberties Union of Nevada
Paul Selberg, Executive Director, Nevada Conservation League
Bob Russo
Joe Gloria, Registrar of Voters, Clark County
Christi Cabrera, Policy and Advocacy Director, Nevada Conservation League
Anwar Green
Guillermo Barahona, Chispa Nevada

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Kerry Durmick, Nevada State Director, All Voting is Local Nevada
Manuel Santamaria
Janine Hansen, State Chairman, Independent American Party of Nevada
Alida Benson, Political Director, Nevada Republican Party
Melissa Clement, Nevada Right to Life
John McCormick, Assistant Court Administrator, Administrative Office of the
Courts, Department of Sentencing Policy
Amanda Brazeau, Nevada HAND
Tess Opferman, Nevada Women's Lobby
Joanna Jacob, Clark County
Eric Jeng, Director of Outreach, Asian Community Development Council; One
APIA Nevada
Ross Armstrong, Administrator, Division of Child and Family Services,
Department of Health and Human Services
Jamie Rodriguez, Washoe County
DaShun Jackson, Director of Children's Safety and Welfare Policy, Children's
Advocacy Alliance
Sarah Adler, National Alliance on Mental Illness
Brigid Duffy, Deputy District Attorney, Juvenile Division, Clark County Office of
the District Attorney
Alex Ortiz, Clark County
Jagada Chambers, Silver State Voices
Nicole Williams
Denise Bolaños
Adrian Lowry
Jodi Hocking, Return Strong: Families United for Justice for the Incarcerated
Desiree Miller
Valerie O'Neill
Ayana Oglesby
Susie Miller, Deputy Administrator, Residential Services, Children's Mental
Health Services, Division of Child and Family Services, Department of
Health and Human Services
Zach Conine, State Treasurer
Miles Dickson, Program Director, NevadaGrant Lab
Paul Moradkhan, Vegas Chamber
Mark Fiorentino, Nye County; Nevada State Board of Pharmacy
Anthony Ruiz, Nevada State College
Amanda McDonal

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Margot Chappel, Deputy Administrator, Regulatory and Planning Services,
Division of Public and Behavioral Health, Department of Health and
Human Services

DuAne Young, Deputy Administrator, Division of Health Care Financing and
Policy, Department of Health and Human Services

Cassia Lopez

Rebecca Wells

Romina Paulucci

Michael Kagan, Immigration Clinic, University of Nevada, Las Vegas

Sabra Newby, University of Nevada, Las Vegas

John Piro, Clark County Public Defender's Office

Gillian Block, Legal Aid Center of Southern Nevada

Kendra Bertschy, Washoe County Public Defender's Office

Melody Judilla, Silver State Voices

Michael Flores

Bethany Khan, Director of Communications and Digital Strategy, Culinary
Workers Union

Maria Nieto Orta, Nevada State Coordinator, Mi Familia Vota

Elisa Martinez Alvarado, Mi Familia Vota

Molly Willoughby

Cyrus Hojjaty

Lynn Chapman, Independent American Party of Nevada

Jan Jones Blackhurst, Chief Executive in Residence, International Gaming
Institute, University of Nevada, Las Vegas

Bo Bernhard, Executive Director, International Gaming Institute, University of
Nevada, Las Vegas

Chaunsey Chau-Duong, Principal Management Analyst, Las Vegas Valley Water
District

Regan Comis, Cleveland Clinic Lou Ruvo Center for Brain Health

CHAIR BROOKS:

I want to thank Senator Kieckhefer, who was the Chair of this Committee a few years ago. This is his last session in the Nevada Senate, which will be a great loss to this Committee and to the State. I am hoping he will chair this morning's meeting.

SENATOR KIECKHEFER:

I appreciate those sentiments and will be happy to act as Chair this morning. I will open the hearing on Assembly Bill (A.B.) 341.

have already been vetted by the CCB would have an opportunity to secure a license as soon as possible.

The question is, with some establishments still in the process of perfecting their licenses due to the lawsuits of unsuccessful applicants, whether those applicants are eligible to apply and bring their retail store and their cannabis consumption lounge online at the same time. We believe the term "operational" as proposed in the amendment, Exhibit B, in section 10, subsection 1, paragraph (a) unnecessarily confuses this issue. Section 10 also includes new language related to an early start concept that needs to ensure all those who have been authorized to secure a license can apply under the early start provisions.

New language has come forward in section 12.5, subsection 4, that references a lottery system for both the retail consumption lounges and the independent lounges. It is our understanding the intent was that retail cannabis establishments would be issued a license after paying the fee. The industry agreed to a fee of \$100,000 to apply. That is an onerous fee if you do not know you are going to get a license. As members of the Finance Committee, you know that fee will help subsidize the CCB and independent lounges by providing funding for staffing for this new license category. The lottery concept should be deleted from the bill for retail consumption lounges.

We asked for consideration of one owner having two licenses if one of those was in a rural county, but that was not supported. Assembly Bill 341 was marketed as providing an economic development opportunity for the State, and we could be limiting potential revenue by forcing only one license per ownership group without consideration for rural or border communities.

The amendment also adds a phrase "as otherwise authorized by regulation of the Board..." to sections 30.6, 30.7 and 30.9. It is not clear what that language is intended to do. It should be clear that consuming cannabis can only be done in a licensed lounge.

SENATOR KIECKHEFER:

I will close the hearing on A.B. 341 and open the hearing on A.B. 126.

ASSEMBLY BILL 126 (2nd Reprint): Revises provisions relating to elections.
(BDR 24-99)

ASSEMBLYMAN JASON FRIERSON (Assembly District No. 8):

Assembly Bill 126 will make Nevada the first State in the Nation to hold a presidential primary nominating process and changes our current presidential nominating caucus system to a primary.

Why should Nevada go first? As Nevadans, we know how unique our State is. Our diverse population better represents that of the rest of the Country, yet our State is small enough for more of our voices to be heard by those vying for the highest elected office in the land. The issues that are shaping our Country's future have been big issues in Nevada for years. Nevada helped put climate change, public lands, health care and tourism on the map.

I have worked my entire legislative career to make voting and elections more accessible to eligible Nevadans. Assembly Bill 126 is another step in that direction. Nevada made great strides to make caucuses more accessible, but the nature of a caucus limits the ability to make it as inclusive as can be. By moving from a caucus to a primary, more Nevadans will be able to have a say in who should ultimately lead our Country.

The majority of the bill makes conforming changes to include the presidential primary in statute and lays out policies and procedures for administering an election.

Section 43 was amended by the Assembly to make the presidential primary date the first Tuesday of February. This aligns with the historical practices of the Democratic and Republican National Committees that organize the presidential nominating process at a national level. We will also continue to work with the national committees on the primary calendar to ensure through the 2023 Legislative Session that Nevada remains in compliance.

The amendment also removed references to other western states scheduling a primary ahead of Nevada. To be crystal clear, the purpose of this bill is to set Nevada up to be the first presidential nominating state in the Nation, not just the west.

Section 44 of the bill was amended to change the presidential candidate filing period to October 1 through October 15. This change is needed for county clerks and registrars to carry out pre-election processes in time for the primary to be held on the first Tuesday in February.

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There are no fiscal notes on this bill for the 2021-2023 biennium as there is no action to be taken this biennium. The next presidential primary will be in 2024.

Nevada has consistently punched above our weight when it comes to elevating the issues we experience every day to national importance; from addressing racial justice to climate change to staunchly working to expand voting rights. Our voices are diverse and better reflect the rest of the Country than the current nominating structure, and it is time for Nevada to take its rightful place as not just first in the west, but first in the Nation.

Candidates who are vying to be president should make their case and test their message with the kind of audience that will be selecting our next president. Nevada fits that bill in both the diversity of our citizens and the diversity of our issues.

SENATOR DONDERO LOOP:

Is the fiscal note from the Secretary of State (SOS) removed?

ASSEMBLYMAN FRIERSON:

The SOS fiscal note is zero for the 2021-2023 biennium. There will be a fiscal impact for future biennia.

SENATOR SEEVERS GANSERT:

Does early voting start 10 days before the election date instead of the 17 days we use in the general election? Is there any mail ballot process?

ASSEMBLYMAN FRIERSON:

Early voting is abbreviated. There is another bill I will be introducing to deal with the mail-in ballot issue. Assembly Bill 126 deals solely with moving from a caucus to a primary.

SENATOR KIECKHEFER:

Could that change if the next bill we hear is adopted?

ASSEMBLYMAN FRIERSON:

That could change.

MARK WLASCHIN (Deputy for Elections, Office of the Secretary of State):
There is no fiscal impact in the 2021-2023 biennium. The intent of the fiscal note we submitted was to be completely transparent for future biennia, where the cost will be very similar to a routine presidential election.

SHANE PICCININI (Nevada Center for Civic Engagement):
I support A.B. 126. I was the Chair of the Democratic Party in Washoe County in the 1990s when Nevada was used as a punchline for late-night comedy shows. Because of the leadership in the State, Nevada has gotten past that. Moving away from the caucus system is the smartest, most inclusive thing we can do as a State. I cannot tell you the number of times in the late 1990s when I received calls from people in Incline Village or more remote areas who were upset about being unable to participate in the caucus system. We have outgrown the caucus system. This is the right time to move away from it.

EMILY PERSAUD-ZAMORA (Executive Director, Silver State Voices):
I support A.B. 126 because it would make participation in our presidential preference elections much more accessible to the everyday Nevadan.

The caucus system is simply inaccessible. Working-class Nevadans may not have several hours to attend their precinct's caucus. It is a long, complicated process that can discourage many from participating, including first-time voters and voters from communities of color. Assembly Bill 126 would provide more oversight and transparency as the election departments would be responsible for conducting the primaries.

MS. MAGNUS:

We support A.B. 126 and urge your support because it will make for a more fair and equitable presidential primary election process in Nevada. We believe we should be first in the Nation, and it is worth the cost.

It is time to make this process more accessible to our growing electorate on all sides of the aisle. Moving to a presidential preference primary system proposed by this bill to give oversight of the presidential primary process to the SOS and county clerks is wise. This provides assurance to voters that their votes will be tabulated by an unbiased, public third party, increasing confidence in the primary system.

The simplicity and efficiency of a presidential preference primary avoids the confusion sometimes created by the caucus process, which can be hard for voters who are not knowledgeable about the rules or counting procedures. More confidence and an easier process means greater participation, which is good for our democracy.

Assembly Bill 126 also sets rules for polling locations during the presidential preference primary to include at least ten days of early voting and long hours of operation to ensure as many eligible voters as possible have a chance to participate. All of this makes for more secure and accessible primary elections for Nevada voters.

CHRISTINE SAUNDERS (Policy Director, Progressive Leadership Alliance of Nevada):
The Progressive Leadership Alliance of Nevada (PLAN) supports A.B. 126. Transitioning from a presidential caucus to presidential primary system will remove barriers many Nevadans face in having their voices heard in the process.

The caucus process is cumbersome and time consuming. Caucuses require a lot of prior knowledge to understand how to participate and how the end results are calculated. They are also typically held on one day a year, either a weeknight or weekend day, meaning those who have nontraditional work hours or caregiving responsibilities are left out unless they make special arrangements. In some cases, the lost wages or cost of childcare needed to participate can be a financial burden.

Moving to a State-run presidential primary is an investment in our democracy to better support working families. A primary election will allow all eligible Nevadans to take advantage of the various ways to vote the State offers, like early voting and absentee ballots. We urge your support of this legislation.

JIM SULLIVAN (Culinary Workers Union Local 226):
The Culinary Workers Union supports A.B. 126, which establishes a primary election in lieu of a State caucus.

In the 2020 Democratic presidential primary season, the majority of caucus participants chose to vote early rather than participate on caucus day. The Culinary Workers Union hosted an early voting site for the first time in 85 years for union and community members to participate in this democratic process. The Culinary Workers Union mobilized members and their families to vote early.

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We are proud that over 2,500 cast their ballot in four days at the early voting site.

Several Las Vegas strip casinos hosted 24-hour voting sites which gave workers the option to vote during their shifts. Assembly Bill 126 promotes voting accessibility, encourages voters to participate and simplifies the process for all voters.

DUY NGUYEN (Chief Operating Officer, Asian Community Development Council;
One APIA Nevada):

We support A.B. 126. Nevada is home to over 300,000 Asian Pacific Island Americans (APIA), comprising around 10 percent of the total population. In 2020, we saw unprecedented voter turnout in the APIA community, both in Nevada and nationwide. From 2010 to 2016, the number of APIA voters in Nevada grew 35 percent compared to 13 percent statewide. Providing more options for Nevadans to access the polls was critical to this turnout.

Although this increase in voter participation amongst the APIA community is promising, we must do more to invest in greater access to the ballot. In Nevada, our workforce and economy operate 24 hours a day, and the caucus is not accessible to many working Nevadans. By switching to a primary system, more Nevadans will be able to make their voices heard. That is why our communities need this investment. We urge you to support A.B. 126.

BEN CHALLINOR (Faith in Action Nevada):

Faith in Action Nevada is a nonpartisan, multifaith organization that organizes and advocates for social, racial and economic justice and an inclusive democracy in both southern and northern Nevada. We support A.B. 126.

This bill is about an inclusive democracy. By making sure we move from a caucus to a presidential preference primary is a way to make sure that more eligible Nevadans are able to participate. By having ten days of early voting and absentee voting, we ensure that our communities of color do not have to take time off from work or find child care in order to participate.

BAILEY BORTOLIN:

I support A.B. 126. For the last couple of election cycles, I have had to vote as an absentee military voter while my husband was stationed out-of-state. The caucus was the only thing I was unable to participate in. There was no option

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for absentee voting. I look forward to the change so that military families are able to participate in the primary.

CHRIS DALY (Nevada State Education Association):
The Nevada State Education Association (NSEA) supports A.B. 126.

Educators ask students to use their voice and build their own agency. We believe our politics and electoral system should strive for greater enfranchisement. The NSEA takes pride in promoting the democratic process, including engaging our members to participate in elections. Last year, NSEA hosted an early vote location in the Democratic presidential caucus with over 5,000 people participating. While we were happy to participate to help make this caucus run smoothly, it is time to move on from the outdated caucus system to a presidential preference primary election.

The presidential preference primary will be more accessible for voters and will increase participation and engagement in this most important election.

JENNIFER FLEISCHMANN (Make the Road Nevada):
Make the Road Nevada supports A.B. 126, because transitioning back to a direct primary system would make our presidential selection process more accessible to Latinx and working class communities across Nevada. Throughout the year, we consistently engage with our members to ensure that they have the proper resources and are well-prepared to advocate for themselves and to participate civically. Although we make it a priority to help educate them on several different civic topics and processes, we found the entire caucus system to be quite a challenge.

As we learned throughout our caucus trainings, the process was extremely intimidating for many of our members. Beyond the confusing system, it requires people to be able to spend an indeterminate amount of hours on what is often a work day for service employees, meaning lost wages for many working families desperate to stay within budget.

Investing in a direct primary system would make participation in the presidential selection process far more accessible to new voters, especially Latinx and working class Nevadans. We urge you to support A.B. 126 and invest in our democracy.

ALYSSA CORTES (Silver State Equality):

Silver State Equality supports A.B. 126, because it will help provide better access to new voters. The confusion and disengagement caused by the caucus system would be eliminated. The primary preference would be handled by the SOS and the county clerks who have ample experience conducting elections. By investing in A.B. 126, you can ensure more trust in our democratic process.

JONNETTE PADDY (Native Voters Alliance Nevada):

The Native Voters Alliance Nevada fully supports A.B. 126, as it sets up a more inclusive process for all Nevadans, but particularly for Native Americans. The bill will create an equitable system that all communities can easily participate in. It will also allow tribal governments to request their own polling locations, providing convenience and accessibility for Native Americans.

CECIA ALVARADO (Executive Director, Mi Familia Vota):

Mi Familia Vota Nevada fully supports A.B. 126 because primaries would make it easier for new citizens to participate in our electoral process. The caucus system is confusing and difficult to maneuver through, especially for first time voters who have not experienced caucuses before.

For an organization that works closely with your Latino constituencies, A.B. 126 would benefit eligible permanent residents who become new citizens. The caucus system is not necessarily accessible for working class communities who do not have the time needed to participate since they often work two or three jobs to make ends meet.

Assembly Bill 126 is an investment in a more inclusive democracy.

IDA GAINES (National Coalition of 100 Black Women Las Vegas Chapter):

We support A.B. 126, which would make it more equitable for all citizens of Nevada to participate in a primary rather than a caucus.

ARIA FLORES (Chispa Nevada):

Chispa Nevada supports A.B. 126 because caucuses are difficult to maneuver through, especially for new voters who have not experienced one. I saw this firsthand in 2016 when my father participated for the first time. I remember seeing how confused he was, but luckily, I was able to explain the process to him.

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Investing in A.B. 126 would make it easier for folks who have a language barrier to engage in our electoral process. Primaries are far more accessible for working Latino voters who need the flexibility of choosing the best day and time to cast their ballots. Vote yes on A.B. 126.

LEONARD JACKSON (Faith Organizing Alliance):

Faith Organizing Alliance supports A.B. 126. Assembly Bill 126 ensures that the Nevada presidential primary is held on the first Tuesday of February of each presidential election year. As a diverse State full of working people, we deserve to cast our votes among the first states in the cycle. Assembly Bill 126 protects that and even puts Nevada in contention to be the first in the Nation. I urge this Committee to pass this bill.

QUENTIN SAVVOIR (Deputy Director, Make It Work Nevada):

Make It Work Nevada fully supports A.B. 126. It is important that we update the antiquated system of caucuses. It was particularly hard last year providing public education to our community about the caucus process—what did elimination mean? What did being viable mean?

In adopting this measure, people will be able to vote much the same way they are accustomed to voting in November. It will be more straightforward and easier for our community members to understand why their voices should be first in the Nation. We urge bipartisan support for this measure.

HOLLY WELBORN (American Civil Liberties Union of Nevada):

I echo my colleagues' statements about the outdated caucus system and encourage the Committee's support of A.B. 126.

PAUL SELBERG (Executive Director, Nevada Conservation League):

I am the former Nevada State Director for the 2020 presidential primary campaign, the current Executive Director of the Nevada Conservation League and someone who was born, raised and started their political career in Iowa, home to the first in the Nation presidential caucuses.

It is time to move away from presidential caucuses, and A.B. 126 should kickstart that effort.

BOB RUSSO:

I am opposed to A.B. 126. Maintaining the caucus encourages more political involvement by Nevadans. Our republic was founded on the principles of active political involvement by the electorate. A more educated and informed electorate results in more qualified people to fill political positions.

Changing to a primary process will be costly and take money out of the pockets of Nevada taxpayers. Presidential primary elections were tried in Nevada in the past, only to be repealed by lawmakers in favor of the caucus system in 1981. Low turnout was a factor in repealing it.

I am also concerned about how this may affect third parties in Nevada. Please vote no on A.B. 126.

SENATOR KIECKHEFER:

I will close the hearing on A.B. 126 and open the hearing on A.B. 321.

ASSEMBLY BILL 321 (2nd Reprint): Revises provisions relating to elections.
(BDR 24-927)

ASSEMBLYMAN JASON FRIERSON (Assembly District No. 8):

Assembly Bill 321 continues what we accomplished with A.B. No. 4 of the 32nd Special Session. We have worked with county elections officials and the SOS to build upon the successes of 2020 to develop a system that continues to expand the freedom of Nevadans to vote. Briefly, A.B. 321 provides for mail ballots in all elections while strengthening elections processes and aligning other election-related deadlines and requirements. I realize that most of the focus today will be on the vote-by-mail provisions, so I would like to provide the Committee with some context and background about this topic.

When, where, and how Americans vote has evolved over the course of the last 250 years. When the United States first came into being, voters would voice their choices on courthouse steps, out loud and very much not in secret. By the end of the 19th century, a paper ballot became common and was increasingly cast in private at a neighborhood polling place. Times are changing again. The majority of states now permit voters to cast ballots before Election Day, either in person at designated early voting sites or via a ballot that has been mailed to the voter's home. In all states, voting now takes place not just on one day during a fixed time period, but over a series of days and weeks before an