

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

**Seventy-Eighth Session
March 10, 2015**

The Committee on Legislative Operations and Elections was called to order by Chair Lynn D. Stewart at 4:02 p.m. on Tuesday, March 10, 2015, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. 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/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Lynn D. Stewart, Chair
Assemblywoman Shelly M. Shelton, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Michele Fiore
Assemblyman John Moore
Assemblyman Harvey J. Munford
Assemblyman James Ohrenschall
Assemblywoman Victoria Seaman
Assemblyman Tyrone Thompson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Carol M. Stonefield, Committee Policy Analyst
Patricia Hartman, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Robert Frank, Chairman, Citizens Task Force for Voter Rights, Las Vegas, Nevada
Lisa Mayo-DeRiso, Member, Citizens Task Force for Voter Rights, Las Vegas, Nevada
Geraldine Lewis, Private Citizen, Las Vegas, Nevada
Jim Sallee, Private Citizen, Las Vegas, Nevada
Robert W. Hall, Private Citizen, Las Vegas, Nevada
Kenny Bent, Private Citizen, Pahrump, Nevada
Linda Buckardt, Private Citizen, Las Vegas, Nevada
Tina Trenner, Private Citizen, Pahrump, Nevada
Jonathan Friedrich, Private Citizen, Las Vegas, Nevada
Luanne Cutler, Registrar of Voters, Washoe County
Joseph P. Gloria, Registrar of Voters, Clark County
Sabrina Mercadante, City Clerk, City of Henderson
LuAnn D. Holmes, Acting City Clerk, City of Las Vegas
Leora Olivas, Director, Silver State Voices, Las Vegas, Nevada
Howard Watts III, Private Citizen, Las Vegas, Nevada
Susan Merriwether, Clerk/Recorder, Carson City
Peter D. Krueger, representing the City of Fernley
Patrick T. Sanderson, representing Nevada Alliance for Retired Americans
Kathy Lewis, Clerk/Treasurer, Douglas County
Dagny Stapleton, Deputy Director, Nevada Association of Counties

Chair Stewart:

[Roll was taken.] We have one bill today and two introductions of bill draft requests (BDR).

I am requesting Committee introduction of BDR 24-1125, which revises revisions related to elections.

BDR 24-1125—Requires proof of identification for voting. (Later introduced as [Assembly Bill 253](#)).

ASSEMBLYWOMAN SEAMAN MOVED FOR COMMITTEE
INTRODUCTION OF BDR 24-1125.

ASSEMBLYMAN MOORE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Our next bill draft concerns an advisory commission for reapportionment. Do I have a motion?

BDR 17-737—Provides for a Redistricting Commission. (Later introduced as [Assembly Bill 252](#).)

ASSEMBLYMAN MOORE MOVED FOR COMMITTEE
INTRODUCTION OF BDR 17-737.

ASSEMBLYMAN THOMPSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Stewart:

Assemblywoman Shelton will give an introduction on [Assembly Bill 209](#).

[Assembly Bill 209](#): Makes various changes relating to elections. (BDR 24-816)

Assemblywoman Shelly Shelton, Assembly District No. 10:

Nothing is more central to a democracy than the voice of the people, especially when they vote for their representatives. Nothing is more vital to democracy than confidence in the election process. It is confidence that the votes people cast are counted accurately, and that the candidates most voters cast their ballots for are elected. [Read from prepared testimony ([Exhibit C](#)).]

Data security is a big concern for government, just as it is for businesses. In big businesses, we hear about hacking in databases because they have to tell us that our information has been breached and our identities stolen. Government is more reluctant to inform us when hacking occurs, especially when it comes to electronic voting.

In 2007, Ohio's Secretary of State released the results of a comprehensive study of that state's electronic voting technology. The study was called

Project EVEREST. It examined touchscreens and optical scanning voting systems. The study was conducted by Pennsylvania State University, the University of Pennsylvania, and WebWise Security, Inc. Their conclusion was that the vendor systems lack basic technical protections necessary to guarantee that the election outcomes can be trusted.

We have an example of that here in Nevada. In the 2014 Republican primary election in Congressional District No. 4, 22 percent of the votes were tabulated for a person no one seemed to know. He did not campaign, debate, or give interviews. The candidate with a ten-point lead in the polls was defeated. How do we explain this?

Both the statutes and the administrative regulations provide numerous sections on buying and using equipment that meets federal guidelines. There are provisions on the control of access to the system, security of ballots, and postelection audits. But all of these functions are performed by election officials themselves and their staff. This is government auditing itself. [Continued to read from prepared testimony ([Exhibit C](#)).]

The Ohio study found that every aspect of elections, including ballots, audit logs, and ultimately the election results can be forged or manipulated, especially if there is no clear chain of custody. This does not have to be malicious or intentional. We have heard our election officials state that Nevada's election equipment is getting old and will start to break down. Could the malfunction of voting equipment put the integrity of our election in jeopardy? I would argue yes.

In Assembly Bill 209, I am proposing to establish an audit trail for each process in the conduct of the election. The audit trail must provide evidence of each transaction and the name of each person involved in that transaction. It must also provide evidence of each use of election equipment and each instance of any person having access to the election equipment. Then, an audit of each election must be conducted by a certified fraud examiner or, if such an individual is not available, a certified public accountant. The audit must examine the security of the ballots, other documents and equipment used in the election, the qualifications of each person who had access to the documents and equipment, and compliance with policies of the election officials.

Assembly Bill 209 requires that any operating system, hardware, or software must be protected by a device or program that restricts access, detects and creates a record of any attempt to access the operation system, and detects and creates a record of any transmission of data from the operating system.

Finally, A.B. 209 revises provisions relating to recounts in any election. Two significant changes are proposed. First, the triggering standard is changed. Currently, the standard is a discrepancy of the greater of either 1 percent or five votes. Assembly Bill 209 changes that to the lesser of either 1 percent or five votes. Second, when the triggering standard is met, the person who demanded the recount is entitled to it. The election official must order the recount of all ballots.

From time to time, I expect that we have all wondered about the results of an election. Polling data could lead us to believe that another candidate was going to win, but sometimes the results are surprising.

I believe the addition to section 12 of this bill sums up what I am trying to accomplish. In the Voters' Bill of Rights, A.B. 209 adds the right to "have a trustworthy election system." Without an external audit trail and a mandatory recount, we may never feel absolutely certain of the outcome of an election. Without that certainty, our democracy has been stolen from us.

Thank you, Mr. Chair. I want to introduce Bob Frank, who will go over the details of the bill. Mr. Frank is the Chairman of the Citizens Task Force for Voter Rights. He served in the U.S. Air Force for 22 years and was on active duty in computers, logistics and contracting. [Reviewed Mr. Frank's credentials ([Exhibit D](#)).] He also was the founder and CEO of Internet Secure Transactions Exchange Company.

**Robert Frank, Chairman, Citizens Task Force for Voter Rights,
Las Vegas Nevada:**

I represent a grassroots organization called the Citizens Task Force for Voter Rights [read from prepared testimony ([Exhibit E](#))]. We submitted some of the original language leading to the writing of Assembly Bill 209. We are a nonpartisan group of unpaid volunteers formed to help identify and assist in efforts to repair vulnerabilities found in the Nevada election system in 2014. My technical qualifications concerning trusted data systems have already been mentioned by Assemblywoman Shelton ([Exhibit D](#)).

Our Citizens Task Force was formed after the 2014 primary elections in Nevada Congressional District No. 4 (CD4), where Mike Monroe [submitted photograph ([Exhibit F](#))], an unknown, unfunded, homeless, ineligible handyman candidate received 5,392 votes, or 22 percent of the total vote, in this rural district. In addition, he won several rural county Republican primaries.

As a result, our group of concerned citizens looked closely at the results in that race, and we were compelled to start asking questions about the integrity of the

election system. We found ourselves asking how could an unknown, unkempt, unfunded man who did no campaigning in seven rural counties get more than 5,000 votes in a Republican primary for Congress? [Continued reading from testimony ([Exhibit E](#)).]

Since June 2014, we have developed the following ten areas of apparent vulnerabilities in the election system that led us to submit language for BDR 24-815, and contributed to the introduction of A.B. 209. Our accumulated public election system evidence reveals:

1. End to end, election system chain-of-custody records and audit trails are not in place.
2. Fraudulent election results can result from nonimplementation of independent audits and security oversight by bonded and licensed professionals outside of government agencies.
3. Accurate recounts of election results are not attainable based on current *Nevada Revised Statutes* (NRS) Chapter 293 and *Nevada Administrative Code* (NAC) Chapter 293 provisions.
4. Insider threats are possible due to insufficient background checks and failures to require disciplined buddy systems.
5. External threats exist because of failures to create and nurture effective security cultures within the full range of election employees, volunteers, and contractors.
6. There is no evidence that internal and external hardware and software inspections are conducted on all systems components before, during, and after elections.
7. Locks on machines, magnetic devices, and transport vaults appear to be easily defeated.
8. Seals and tamper detection training for workers are not adequate.
9. Chain of custody records for storage and transport drivers and ballot handlers are not part of postelection audits and other relevant security procedures.

10. Executive Branch officials, county registrars, and precinct leaders are not accountable for systems under their authority found vulnerable to corruption or criminal violations.

We have provided the above list to the election division in Clark County and to some of the rural counties since November. Unfortunately, we have only received some verbal comments from the Clark County elections organization. They advised us they were fully compliant with election statutes and that they are not required to respond to citizen concerns.

This led us to confirm that the statute is obsolete and the management system needs repairs. By the Legislature not requiring our public election system to implement such basic business system features as industry-defined audit trails and chain of custody records, modern professional audit practices required elsewhere in government and business cannot be implemented. [Continued reading from ([Exhibit E](#)).]

How do we pay for the improvements? It is our experience that it is impossible for the Legislative Branch to estimate the cost of revisions to Executive Branch operations unless there is full cooperation. Baseline costs of existing system elements must be considered when projecting the costs and times to make the additions. Our opinion is that it is the duty of the election division to submit the budget estimates that need to be included in this bill, and to suggest how the additions can be handled in the future as a revenue-neutral bill.

Finally, our Citizens Task Force believes there are serious conflicts of interest that need to be resolved when government employees in the election division and counties are allowed to be self-serving by openly challenging the recommendations made by concerned citizens. We are simply doing our civic duty to insist that our laws require the Executive Branch to comply with the leading lessons learned elsewhere in business and government.

We the people require implementation of trustworthy elections based on the results from certified, independent auditors and fraud examiners, and we trust the Committee on Legislative Operations and Elections will appreciate our concerns and approve A.B. 209 as a major step forward in policy formation.

Chair Stewart:

I want to acknowledge a letter ([Exhibit G](#)) addressed to this Committee from Jim Sallee, who is in support of A.B. 209.

Assemblyman Elliot T. Anderson:

The security of our elections is a very important topic, and I agree with you that we need to ensure we keep elections safe and secure. I have a question on the genesis of the bill. Have you had any indication from any of the poll workers that there might be a lack of security or trustworthiness?

Assemblywoman Shelton:

I am going to defer that question to Mr. Frank because his organization has been working not only with the poll workers but also in the actual precincts.

Robert Frank:

There are a number of people in the rural areas who have had more experience talking with poll workers and also working within the county systems. One of the reasons why we feel comfortable with our ten points is that we have covered a great deal of data from dozens of people to formulate that issue. We do not like to make such claims unless we have people telling us about those issues. If you would like to have affidavits or specific individuals testify about their experiences, we can arrange for that to happen.

Assemblyman Elliot T. Anderson:

This question is addressed to Mr. Frank and Assemblywoman Shelton. What I learned regarding low information elections, even in a U.S. Congressional District, is that weird things happen. People may vote for someone only because she is a woman. If they have to choose between two men, they may vote for the first one on the ballot or vote for a familiar name. If you know of people who have conducted these elections and have had unusual experiences, I would appreciate your having them contact me. I want to know their concerns so we can fix them.

Assemblywoman Shelton:

I think Mr. Frank can get you that information.

Robert Frank:

There is anecdotal information about individuals who were unhappy or surprised. When I voted in the June 2014 election, I pushed the card into the voting machine, and it voted for me at the bottom of the list. I called the supervisor to assist me with the machine, and his advice was to try it again so it could be overridden. I also asked the supervisor if he had trouble with this or others like it before, and he said yes. Sometimes they indicate the machines are not being calibrated properly, but I do not believe that is the cause of this particular problem. There are a variety of other things, including the age of the machine, that could cause the problem. It was early in the process and the machine had not been used for more than one day. It worried me that the

supervisor said that it happens from time to time and to start over again. We are not trying to chase down individual anecdotal cases like that; we are focused on finding where the 5,392 votes originated.

When you have rural counties such as White Pine and Esmeralda, and this nonperson wins those counties against the two main Republican candidates, that does not make any sense, and it cannot be explained as being a calibration error. It could be hacking or network corruption, but simple explanations do not add up to over 5,000 votes.

Assemblyman Elliot T. Anderson:

You cannot tell who someone voted for, but the identity of the voter is public information as long as it is not in a small precinct where you could lose the sanctity of the secret ballot. That is something that can be done now.

Assemblyman Thompson:

Did you have a sample polling group of Nevadans? Approximately how large was the group?

Robert Frank:

The survey we conducted was not a poll. It was for people to go to Esmeralda and White Pine Counties and contact registered, voting Republicans for their feedback to explain why this gentlemen won their county, since we do not know of anyone who voted for him. We have been attempting to do something more systematic but have been told that the statute does not allow us to unseal the records for comparisons. Our hands are tied in attempting to research from the outside, and we are requesting help in that area.

Assemblyman Thompson:

If a candidate feels there was no integrity in the election process, is it already in the statutes that they can request a recount at their expense? Otherwise, if we enact A.B. 209, in every election and on every level, we are going to do an audit, is that correct?

Robert Frank:

An interesting thing happened in the CD4 Republican primary, where the number-two losing candidate requested an investigation and started down the path to a recount. I am told that he was told by the Secretary of State that it would cost \$14,000 to do a recount and that he would have to pay for it out of his own pocket because he could not pay for it with campaign funds.

I think the bill is trying to make it more of a level field. For people who have lost campaigns, it is very frustrating for them if they lose a close race because

they feel they are being criticized and considered a sore loser if they ask questions. Winners win, and losers lose; therefore, you do not have a good basis for protesting. According to the statutes as interpreted by the Secretary of State, we have no right to have the records unsealed or to find out what caused this action. Only a losing candidate, within a short period of time, can question the vote. Does that sound reasonable? I think the bill is trying to fix this situation.

Assemblyman Ohrenschall:

Could either of the presenters go over the automatic recount issue under section 13 and explain what your views are on the change from the current law? Does it change who pays for it? Will it involve running the software to count the electronic machines, or is it a hand recount?

Robert Frank:

My understanding is it is important to establish an audit trail of the chain of custody of records to establish the system credibility for making a better, faster, and more accurate recount. The cost of the recount would be lowered if there was the ability to do it. My understanding of the recount procedure in the postelection audit is that it needs to be improved. I was shocked to hear it cost \$14,000 to do a recount in CD4. It is difficult to understand how that was computed. We were trying to find out how many times people have had recounts in the state of Nevada in the last ten years. We found there was a difference between what was reported and what was found on the recount. The information we found is that it was always the same number. The electronic records are repeated from prior reports. We cannot find evidence that a recount accomplishes anything under our current procedure.

Assemblyman Ohrenschall:

Section 13 is only talking about the electronic recount, not a hand recount, is that correct?

Robert Frank:

Depending on the audit trail procedure, my understanding is that it is the electronic recount.

Assemblywoman Fiore:

I want to thank Assemblywoman Seaman for bringing this bill forward. I particularly like government auditing itself and working hard to bring integrity to our election process.

Chair Stewart:

Is there anyone else in favor of this bill?

**Lisa Mayo-DeRiso, Member, Citizens Task Force for Voter Rights,
Las Vegas, Nevada:**

In response to Assemblyman Anderson's question, a recount would not have made any difference in the CD4 race. I did an analysis for White Pine County, Esmeralda County, and key Clark County precincts and voting areas. It is not a problem with the counting of the votes, because if they would have been recounted, they would have been the same. The problem is whether or not an individual selected a candidate and that vote was recorded in the proper place.

There are consistent problems throughout White Pine, Esmeralda, and Clark Counties. The unusual factors seem to repeat themselves from county to county, and that is why the Citizens Task Force for Voter Rights has taken on this project. What we have put in front of you is a way for us to ensure that our election system process is transparent and can be certified. Every person on this Committee or any elected official needs to be concerned about this. It does not have to be 5,000 votes that change an election. In North Las Vegas, I was involved in an election where one vote made the difference. There is no way that you can certify these elections or figure out what happened. I am still shocked that the Secretary of State, our Clark County Election Department, and others did not scratch their heads.

The candidates who are ballot candidates tend to put their name on the ballot, do not raise money, do not walk, do not send out mail, and do not show up. This person did not even have a picture. The fringe candidates tend to get between 2 and 7 percent of the vote. This person got 22 percent of the vote. Clearly something occurred, and I think you as legislators and we as citizens owe it to ourselves to find out what happened and to put in place laws that will help to make sure it does not happen again.

Assemblyman Thompson:

In this situation, was there an option on the ballot for "none of these candidates"? Could it have been that this person received those votes in default because the voter came to the polls and decided to exercise his right to vote but did not like the preferred candidate and decided to vote for the other candidate?

Lisa Mayo-DeRiso:

No, there was not an undecided candidate. If people came to the polls and had no idea who they wanted to vote for, they could have voted for either of two candidates who were unknown or had the same campaign profile. In other words, they did no campaigning; they just put their name on the ballot. The other individual received 2.15 percent of the vote, and if Mr. Monroe had received between 2 and 7 percent, I would not have been as concerned.

Mr. Monroe garnered 22 percent of the vote. In our research of performing an audit, there are consistent mathematical repetitions that occurred.

Assemblyman Thompson:

Would you consider this an isolated incident? We are talking about changing the way we do business in this state at election time, and the elections departments have talked about improving the system. They are trying to understand what we have in mind, but this is only one incident.

Lisa Mayo-DeRiso:

I hope it was an isolated incident, but I do not think so. We have not had the opportunity to determine if it was an isolated incident or if it could happen again. The last thing any of us want is for our election system to be compromised in any way. We have spent hours looking at our statute and other states' statutes. We are attempting to bring Nevada into the twenty-first century where we as citizens, the government, or election officials have the opportunity to audit the outcome of the election process.

Chair Stewart:

Is there anyone else in support of A.B. 209?

Geraldine Lewis, Private Citizen, Las Vegas, Nevada

I have a citizen directive, and it is because of past documented voter fraud cases in the United States. We and generations of Americans have been, and are, at risk of disenfranchisement or nonrepresentation at elections across the country. Because the lives of Americans are currently at a freedom-or-less-freedom crossroad, we the people do hereby ask for a postelection citizen vote verification audit. We are asking for all county, city, and municipality election departments to allocate postelection time for citizen-appointed vote verification teams. These teams would cross-check each election vote and absentee vote as well as military votes at home and abroad.

Through the powers vested in us by the Declaration of Independence, we the people do hereby bind the authority of governmental election departments and agencies to solely or wholly count, calculate, tabulate, or abridge any and all votes in any future elections without making official provisions for an immediate postelection period for manual verification and election audits by the citizenry.

All election totals reported on election night by government, election departments, numbers resource centers, the media, newswires, or any public entity or official are to be considered by the people of Nevada and the United States to be pending or null and void until we, the people, have completed verification of reported election night results.

There have been widespread documented cases of voter fraud throughout America. The following are examples for this citizen directive:

- In Nevada, machines have been reported to be voting by themselves.
- In Missouri, 15 counties have more voters than population.
- There have been dead people voting throughout Florida.
- A massive voter fraud trial has been reported in New York. Two veteran Democratic political operatives in Troy have said that voter fraud is an accepted way of winning elections, and faking absentee ballots was commonplace.
- In Massachusetts, there were 116,483 registered voters who were reported dead.
- There was a voter fraud investigation in Indiana.
- There was a 141 percent voter turnout in St. Lucie County, Florida, in the 2012 election.
- In Cincinnati, Ohio, a woman voted six times for a candidate in 2012.

We want to be able to do as Ronald Reagan once said to us: trust, but verify. We believe it is our right to be able to verify election night results with a provision of time to perform our own audit.

Jim Sallee, Private Citizen, Las Vegas, Nevada:

In my 51 years of residency in Clark County, I have heard a lot of people say they are disgruntled over election results [referred to letter ([Exhibit G](#))]. When we were still using the IBM punch cards for ballots, people tried to video the count, and they were told to leave. A law was passed that you could not photograph or video counting of the votes. We moved to electronic voting, and as Assemblywoman Shelton mentioned, hacking is going on within the computer world.

I am a resident of Congressional District No. 4. With the shenanigans that went on in this last election, I feel disenfranchised and am encouraged to see the presenters here today are taking the bull by the horns in an attempt solve these problems.

Robert W. Hall, Private Citizen, Las Vegas, Nevada:

I am a graduate of the Republican Campaign Management School, and I am in support of [A.B. 209](#). These problems are not new, but the effects are terrible. I operated a management consulting firm for a number of years, and if an audit is not performed, you can kiss any truthful set of books good-bye. This is along the same principle. If people can get away with fraud, they are going to do it. I am one of the first people who moved into Sun City Summerlin. We find that a lot of this is not local but is being brought in from other jurisdictions by people

who operate nationally. I am more concerned about that than anything, and it is one of the reasons I support this bill. I see corruption every day in this whole system; it is not just voting. I thank you for the opportunity to voice my opinions. I have put the uniform of this country on five times, and I am a son of the American Revolution. I have never lived in a place as corrupt as Nevada.

Kenny Bent, Private Citizen, Pahrump, Nevada:

I am a resident of Nye County and stand in support of this bill. I was involved in the 2008 elections in our valley where there were over a dozen votes that came in from the Chief Tecopa Cemetery, with an additional 80 votes from an abandoned building.

In 2010, we had volunteers run exit polls to determine if we could understand what was happening, so we decided to do a recount. One of the commission races was won by drawing a card because of a tie. If a candidate wants a recount, they rerun the tape so it comes out with the same number. To proceed, I needed a court order to do a recount and gain access to election materials. As a result, District Judge Robert Lane ordered the county clerk to seal the records until we could do the recount. When we were ready to proceed, we were told by the county clerk that we could not come there for another week because they were recalibrating the Sequoia voting machines. There was a gap in the chain of custody and nothing was verifiable. When we did get there, we had to ask for specific things; we asked for six, but were awarded five. One item was the backup rolls. When the boxes were opened, there were very few rolls that were intact. When the rolls come out of the machine, there was a place for the voters to sign. Other than the computer numbers on the rolls, there were few pieces left for us to put together in order to be certain that we had the entire roll.

In 2012 and in 2014, we had an organized exit poll covering every voting location, with 30 percent of the voters participating in the poll. Several of the races were within one-tenth of a percent of hitting the exact numbers of those voters who had registered. There were a few races that were inconsistent. A lot of the voting materials from 2008 were missing. From my interpretation of the *Nevada Revised Statutes*, when verifying the signatures and addresses on the mail-in ballots, they are not to be opened until after the polls have closed. I learned they had been opened and separated from the envelopes four days prior to the election. Approximately 15 or 16 of the counties in Nevada have the same procedure. We volunteered so this was at no cost to the county. We paid the county clerk overtime because they did not want us to do the audit during office hours.

Linda Buckardt, Private Citizen, Las Vegas, Nevada:

I was a poll watcher at MacDonald Ranch a couple of years ago. After the polls closed, the machines were left exposed outside at night without election official supervision. I stayed to watch and after a few minutes, someone picked them up. I was outraged at the lack of security since anyone could have intercepted the voting machines. The machines could have been tampered with without the knowledge of the election personnel. With today's lack of Internet security, anyone can change votes. We need to have a picture of the voter and a nondriver's ID like we had in Minnesota. Eighteen voters per address should not be allowed.

Tina Trenner, Private Citizen, Pahrump, Nevada:

I live in Congressional District No. 4, and I am a broadcaster by profession. I produce both national and local television, and radio shows. I have been an investigative reporter for a long time and the story of Mike Monroe prompted me to believe this was a great story so I became part of the Citizens Task Force because I knew something was wrong.

The Ely Times was so stunned by Mike Monroe's approximate 22 percent win that they wrote a story on who he was and who he was not, since he was off the radar to the media in that area. They asked anyone in White Pine County to come forward and report they had voted for Mr. Monroe. To this day, no one has shown up or contacted the newspaper. We may want to believe someone went into the voting booth and arbitrarily voted for Mike Monroe but did not do it 22 percent of the time.

I believe strongly in the republic that we live in, but I do not believe we can have the republic if we do not have honest, fair, and accurate elections. This past weekend, I watched reports on the fiftieth anniversary of the civil rights march in Selma, Alabama, and I remember as a child watching the horror that people went through with the dogs and water hoses being turned on them because they wanted to vote. Today we are so cavalier with our votes that we cannot even audit them. Please think about what we are doing here, as this is the safety of our republic, and remember the people in the past who have suffered in order to be able to vote.

Jonathan Friedrich, Private Citizen, Las Vegas, Nevada:

Over the years, this state has enacted many statutes to protect its residents from those who would do harm or injustice to them [referred to prepared testimony ([Exhibit H](#)).] These laws in theory are attributed to this legislative body. Last September, I filed a criminal complaint with the Las Vegas Metropolitan Police Department against Jesse Holder for being a carpetbagger in Assembly District No. 10 and lying on his candidacy form. The detective who

was assigned to investigate the case claimed no election laws were violated, yet a district court judge found that Mr. Holder was not a resident and disqualified him for breaking the election laws.

The point is that people charged with investigating corruption are not doing their jobs or are finding reasons to circumvent their responsibilities. I applaud Assemblywoman Shelton for sponsoring A.B. 209. I support the concept, but without enforcement it will not work as intended. I do not see any enforcement in this proposed bill, so I see it as a "go nowhere, do nothing" piece of legislation. Who will enforce it, and what will the consequences be for failing to follow the language in the statutes? This needs to be clearly spelled out in the bill. Who will be tracked as called for in section 7 of the bill? Will it include clerks, warehousemen, or truck drivers who deliver the voting machines? I believe these details need to be clearly spelled out.

Chair Stewart:

Is there anyone else in Las Vegas in a favor of A.B. 209? [There was no one.]

Is there anyone else in favor of this bill in Carson City? [There was no one.]

Is anyone opposed to the bill?

Luanne Cutler, Registrar of Voters, Washoe County:

Our position as a county election department is that we oppose the language in this bill since it would tie our hands to the point where we would be unable to operate. To have an audit as complete and extensive as what is mentioned in the bill would require full-time staff. Our counterpart, Mr. Gloria in Clark County, has prepared the majority of the testimony and has specific information regarding the bill. We would appreciate that his testimony would be heard first so we can follow up.

Joseph P. Gloria, Registrar of Voters, Clark County:

I am here to testify in opposition of A.B. 209, not because I do not believe in the transparency and integrity of elections in Nevada. On the contrary, my colleagues and I work tirelessly in every election cycle to promote transparency in the process of elections and to uphold the integrity and accuracy of our work. I am in opposition due to the level of scrutiny this bill introduces in an area where we have had no documented incidents related to the tabulation of votes or the accuracy of our system in the state of Nevada since the implementation of direct record electronic machines.

Speaking solely of Clark County, there has never been an instance where a tabulation error has impacted the outcome of an election. Never has an official recount resulted in a change of the outcome originally reported. There are three instances where an error by an Election Day poll worker in the processing of

voters affected the outcome of the contest. In each case, the discrepancy was identified by the county and appropriate action was taken, because we audit our elections and are required to do so according to the statutes for canvass. The reason for our level of success is because we use the direct-recording electronic voting system, which is the most accurate form of recording votes available in the industry. We have utilized this technology since 1996, and it has proven itself to be 100 percent accurate in tabulating results. There is a system of oversight provided by federal and state law which ensures the accuracy of our system. The processes and procedures put in place by every county in the state of Nevada, with oversight from the Office of the Secretary of State, provides for a transparent and reliable election process with a high degree of integrity.

Starting at the federal and state level, there are standards for voting equipment. Before any system can be considered for purchase at the state level, it must pass the federal level of compliance. There are three certified laboratories that are authorized to provide this testing and scrutiny. There is a system of oversight in place also at the state level. Once they have a system certified at the federal level, the State of Nevada, in partnership with the State Gaming Control Board, puts the machine through its paces to ensure that it tabulates correctly and has redundancy. Also, each county is required to run its own certification with each machine. So there are three levels where we put these machines through their paces, starting with the federal level.

Chair Stewart:

Do you do this before each election?

Joe Gloria:

This is done before the system can even be purchased. During the federal certification, the laboratories test the integrity of the circuitry, they put the machines in a freezer at 200 degrees, then subject them to extreme heat, and drop them from ten feet. They do everything they can to bust the machine. They run it through those certification paces before it is even allowed to come to the state for purchase. The state also has their own process by which they certify equipment prior to purchase. They work with the State Gaming Control Board to run tests prescribed by the state before reaching the county level. We accept the equipment and document the tests that are run on each machine before we put it in use.

There is a different set of testing before an election. There are three rounds of certification testing. It is performed prior to early voting, prior to Election Day, and after Election Day. There is a certification board made up of members of the community, and these citizens witness each round of testing, which

involves the following areas. Hash code testing verifies we are using the certified version of software tested in federal laboratories as mandated by the State of Nevada. It also ensures the accuracy of the tabulation by our system, because we place a predetermined tally into it through our mail system, our early voting system, and through Election Day. This predetermined tally is run on all of the machines and tabulated to ensure that we can accurately predict the outcome. This proves that the system tabulates accurately and is the purpose of that round of testing. The testing is performed before every election, whether at the state, county, or city level.

I want to address the certified fraud examiner and its fiscal impact. In Clark County, the fiscal impact could reach over \$400,000 annually. As written and as reported by our internal auditor director, it would be difficult for any accounting firm to bid on the work. Any auditor who can say there is no fraud, no errors, or that all policies and procedures were followed, is misleading the client. The best we can do is attest that we have reasonable reassurance there were no material errors or deviation from policy and procedures. The amount of work is monumental. One full-time employee plus the majority of my staff at election time could not meet the 30-day time frame. The audit contract would cost approximately \$300,000 a year, which is 3,000 hours at \$100 an hour. It would also put requirements on the staff to provide information during the busiest times. You would have as many hours gathering the information and answering questions.

It is critical that every voter understand it is their responsibility in the booth to ensure the choices they are making are registered correctly. The voters have three opportunities to verify that their choice is being marked correctly and accurately. First, when they hit the circle to the right of the candidate of their choice, they should see a checkmark. If they do not see the checkmark, they should bring it to the attention of our staff, who are trained to remedy this situation. Second, every voter is forced to go through a review screen which lists every contest in which they are eligible to vote and to ensure that the candidate they select shows up on the screen. Third, every voter is required to print from the voter-verifiable paper audit trail, known as the VVPAT, a printed record that identifies for them who they voted for in each and every contest. When their ballot is cast, a barcode is printed at the bottom of that printout that we can use to manually verify that the choices made are in fact what the voter intended.

It has been discussed that it is possible to hack into our system. Our network for tabulating votes is set up on a stand-alone secure network. It is a room that requires three levels of access: a key to enter the building, access to the alarm code, and biometric security for access to the system. Every employee

assigned to work in the tabulation room cannot log into the tabulation system without verifying that the fingerprints match.

There have been points made arguing the fact that we do not have audits in Clark County. One of the most important audits that takes place comes from the general public. Leading into every election is an army of individuals, private citizens, Democrats and Republicans, who know they can access the voting information on a daily basis from our mail system and our early daily voter turnout on our website. The votes are updated on our Internet website the next day for verification that the counts match. We have audits within each early voting site, and they are electronically tied to each machine. The software has a check sum value that is written to each one of the electronic cartridges within these machines. If anyone makes an attempt to hack into the system, there is a redundant data path that has three areas of storage: the results cartridge that we tally every night, the central processing unit (CPU), and the printed record.

I have the highest degree of confidence in the processes we use to ensure the integrity of our elections in Clark County and the state of Nevada. Our state is highly regarded in the election community, as evidenced by being named in the top five as ranked by the Pew Elections Performance Index for two years in a row. If funds are allocated to promote election integrity, it should be spent in other areas.

In conversation with Mr. Frank, he presented these concerns to me, and I told him that if I had the resources to perform the level of audit he is trying to communicate in this bill, there would be other areas of election integrity I would focus on first. The integrity of the election cycle is paramount to what we do, and I am sure my colleagues would agree. It is why we get paid and is the profession we are in. The resources tied to this bill are astronomical, and I think there are other areas where we can make improvements which would have a bigger impact on the integrity of the process.

Chair Stewart:

In what other others areas would you prefer to spend the money?

Joe Gloria:

An electronic poll book would put our Election Day activity on par with what we are doing during the early voting cycle. Our database would be hooked up real-time on Election Day instead of us using a paper roster. The integrity of our process would increase tremendously. We have an aging system and need resources for its replacement, which is not to say that the integrity of the election cannot be upheld using the current system.

Assemblyman Moore:

What is the criteria for choosing the citizens on the certification board who go back and verify the election process?

Joe Gloria:

We get one representative from the Democratic Party, one from the Republican Party, and one from the community at large.

Assemblyman Moore:

Are you an information technology (IT) expert or have an IT background?

Joe Gloria:

No, I do not.

Assemblyman Moore:

Do any of the election registrars here have an IT background? You cannot guarantee based on your lack of knowledge of IT programs whether your system can be hacked or not, is that correct?

Joe Gloria:

Based on the federal and state guidelines, protections are in place that guard against hacking into the system, and I would produce an expert who can give you his testimony. I was a certified technician for many years prior to becoming the registrar.

Assemblyman Moore:

I would imagine banks would have the same system, and they get hacked into every day. I would appreciate receiving expert documentation of people who you work with for verification.

Joe Gloria:

Certainly.

Assemblyman Elliot T. Anderson:

Do you employ people who are IT experts who have provided you information on whether your systems can be hacked into?

Joe Gloria:

My entire division.

Chair Stewart:

Is there anyone else in Las Vegas who is opposed to A.B. 209?

Sabrina Mercadante, City Clerk, City of Henderson:

The City of Henderson is opposed to this bill, and we concur and support Mr. Gloria's position. This bill requires county and city clerks to implement and audit systems to establish security requirements for election hardware and software for an election system that has an above average success rate. Since 2007, the City of Henderson has had one recount, which did not change the outcome of the officially canvassed results.

Since 1996, when electronic voting was implemented, there has never been an instance where a tabulation error has impacted the outcome of an election in Clark County, and never has an official recount resulted in the change of the outcome originally reported. The majority of the requirements in this bill would fall on the Clark County Election Department. The cities would incur costs for a certified fraud examiner or a certified public accountant as well as staff. The state of Nevada does not have a history of compromised elections, ballot or equipment issues, or recounts. The need for this type of auditing regulation has not been demonstrated or justified.

I am also here to express opposition to this bill on behalf of the Nevada Municipal Clerks Association.

LuAnn D. Holmes, Acting City Clerk, City of Las Vegas:

I also have an IT background which is not currently being utilized, but I do have people in our organization who would testify to the security of our system. I am in concurrence with Mr. Gloria's opinions, including what the City Clerk of Henderson has said.

Leora Olivas, Director, Silver State Voices, Las Vegas, Nevada:

We believe in the need to preserve and expand the integrity, accessibility, and efficiency of elections. However, I do not think that this bill is the right way to achieve that goal. The county election officials primarily need the funding to upgrade elections equipment to increase security, and those security requirements need to be phrased in a way that is not overly burdensome. Assembly Bill 209, as written, provides an unfunded and unrealistic mandate to our local governments who have been recognized by our current and former secretaries of state and outside researchers, such as the Pew Elections Performance Index, for running excellent elections. Nevada runs elections efficiently, and I am proud of our state in that area. We should work to implement electronic poll books and other reforms and not create onerous new requirements. Let us respect the experience and knowledge of our experts relating to advancing election integrity.

Howard Watts III, Private Citizen, Las Vegas, Nevada:

I support adding a provision to the voters' bill of rights. We are entitled to a trustworthy election system. I believe there are improvements that can be made but where we differ is how to get there. I am not sure how a certified public accountant is qualified to audit an election system. There are safeguards in place, and we have an election integrity task force that receives and investigates complaints and addresses discrepancies. I understand there is distrust on how electronic system can work, and that is why there are built-in tests, checks, and redundancies, including a paper trail that is generated at the voting poll.

I have worked on election issues with organizations and have been a poll worker. I have not experienced any issues with the voting machines, nor have I seen anyone having a problem with the machines. The election staff and volunteers are helpful in assisting voters through the process. I do not see how it is possible for any substantial manipulation of the voting machines to go unnoticed. I do not understand the mistrust of our election officials, experts who hear the concerns of groups and members of our community. Citizens are not concerned with political gain but with running elections efficiently.

Chair Stewart:

Is there anyone else in Las Vegas who is opposed to the bill? [There was no one.] Is there anyone in Carson City opposed to this bill?

Luanne Cutler:

Regarding our tabulation system in Washoe County, we also have a secure room requiring badge access to enter. The server cabinets are locked, and there is no one outside of our permanent staff members who has access to those servers. Our entire tabulation system is stand-alone. There is no room for Internet hacking or entering the system in an unauthorized manner, at least through networks.

We also agree with Mr. Gloria regarding the need to update to electronic poll books, which would help with more efficient processing of information about our voters and what happens on Election Day. We are opposed to A.B. 209.

Susan Merriwether, Clerk/Recorder, Carson City:

I am also in opposition to this bill and have discussed it with nine of the other county clerks who are in opposition as well. I concur with Mr. Gloria's testimony and the details on the process of elections. I want to mention that if anyone is concerned about the security or process of the elections, I would give information on any of the steps involved in this process. As far as activating the voter cards, the electronic poll books would help distribute the correct

precincts to the voter without worrying about human error. This would benefit Clark and Washoe Counties as well as those counties that have multiple precincts and ballot styles. We have election boards who train the staff and perform prelab testing on the machines and ballots. If there was any way of improving the election process, I would be the first to tell you that there was a problem.

Peter D. Krueger, representing the City of Fernley:

We too are opposed to A.B. 209.

Patrick T. Sanderson, representing Nevada Alliance for Retired Americans:

Seniors are among the largest percentage of voters at the polls. I am opposed to this bill because I come from northern Nevada where we have had Alan Glover and Susan Merriwether as the Carson City Clerk, and they are efficient, have the poll books, and do a great job. I am not from CD4, but because of the current type of elections and because they encompass the rural communities, people are unhappy because they do not feel they have regular representation. They want to be represented by their own candidate. I believe the reason many people voted against the leading candidate, and for a person who did not have any money or did not campaign, was because they felt anyone would be better than the one who was running. I ask you to support the people who effectively run our elections in Nevada.

Kathy Lewis, Clerk/Treasurer, Douglas County:

We also strive to run trustworthy, honest, and fair elections, but we believe this bill would be an undue administrative and financial burden to Douglas County. We agree with the statements of opposition.

Dagny Stapleton, Deputy Director, Nevada Association of Counties:

I want to echo the comments of the Clark County Registrar and the clerks from the various counties who have testified. Their concerns with the bill are shared with counties throughout the state, and they agree that they would see similar impacts if this bill were enacted because of the requirements for additional staff and dollars. They all share their commitment to the integrity of the election process.

Chair Stewart:

Is there anyone else in Carson City opposed to the bill? [There was no one.] Is there anyone in Carson City or Las Vegas neutral on the bill? [There was no one.] Assemblywoman Shelton, you may come to the table and make your closing statement if you wish.

Assemblywoman Shelton:

Thank you, Mr. Chair and Committee, for allowing everyone to give their testimony today.

Chair Stewart:

Thank you, Assemblywoman Shelton. The hearing is closed on A.B. 209. Is there any public comment in Carson City? [There was none.] Is there any public comment in Las Vegas?

Robert Frank:

The county testified on a number of issues. Although we did not hear from the state division, it would be interesting to hear from them in the future. I would like to note that the focus on security is only a part of the system. According to testimony, there is no security audit trail or chain of custody records between the county and the state. Our research shows that the most likely place where the manipulation of the 5,000 votes in CD4 in June 2014 occurred was between the county and the state. You did not hear anything about that part of the system; it is a black hole since it is not documented, discussed, or described. We need to worry about the audit trail because without it we could not possibly find out what went wrong in that case. If we had had this hearing a year ago, I would not be here. There would have been no reason to ask you to consider this bill, because without the CD4 unexplained situation, there would have been no evidence to show wrongdoing.

One of the videos the task force accumulated shows a programmer reporting to the Florida Legislature that he was hired to corrupt the system. He wrote a program that was inserted through the memory card into the machine and corrupted the output. Even though the voters saw the paper ballot on their screen and pushed "vote," the actual tally reported on the memory card was different from what the people voted. So the electronic vote showed a different result than the paper vote.

These are the kinds of things that may or may not be happening in Nevada, but without the end-to-end audit and the ability to have external reviews, we will never know where these elections are going, and the winners and losers may not be certain whether the results are accurate. We will continue to try to work with our friends in the county and city to help them to help us understand. The election system is ours, we the people; it is not yours. If we want it to be fixed to our satisfaction and we pay the taxes, then you should cooperate and help us do what needs to be done, even if it is a little inconvenient sometimes.

Chair Stewart:

Thank you, Mr. Frank. The meeting is adjourned [at 5:44 p.m.]. [[Exhibit I](#) was submitted but not discussed and will become part of the record.]

RESPECTFULLY SUBMITTED:

Patricia Hartman
Committee Secretary

APPROVED BY:

Assemblyman Lynn D. Stewart, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Legislative Operations and Elections

Date: March 10, 2015

Time of Meeting: 4:02 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 209	C	Assemblywoman Shelton	Statement
	D	Robert Frank, Citizens Task Force for Voter Rights	Credentials
A.B. 209	E	Robert Frank, Citizens Task Force for Voter Rights	Testimony
A.B. 209	F	Robert Frank, Citizens Task Force for Voter Rights	Picture of Mike Monroe
A.B. 209	G	Jim Sallee, Private Citizen	Testimony
A.B. 209	H	Jonathan Friedrich, Private Citizen	Testimony
A.B. 209	I	True Democracy Party	Article