

SENATE BILL NO. 237—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE SECRETARY OF STATE)

FEBRUARY 27, 2019

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to the security of elections. (BDR 24-970)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 6)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to elections; defining certain terms relating to election security; requiring the Secretary of State to adopt regulations for conducting a risk-limiting audit of an election; requiring each county clerk and city clerk to conduct a risk-limiting audit; establishing certain provisions for each county clerk, each city clerk and all election staff relating to cybersecurity; requiring county and city clerks to test electronic rosters under certain circumstances; providing that certain records relating to the security of an election are not public records; providing that certain signatures on election records are confidential; requiring the Secretary of State to establish a pilot program to conduct risk-limiting audits of the 2020 general election; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 **Sections 2-4** of this bill define the terms “information system,” “risk-limiting
- 2 audit” and “security of an information system.” **Section 5** of this bill requires the
- 3 Secretary of State to adopt regulations for conducting a risk-limiting audit of an
- 4 election. **Section 17** of this bill requires the Secretary of State to establish a pilot
- 5 program to conduct a risk-limiting audit of the results of the 2020 general election.



* S B 2 3 7 *

Section 6 of this bill requires, effective January 1, 2022, each county clerk to conduct a risk-limiting audit of elections in accordance with the regulations adopted by the Secretary of State.

Section 7 of this bill requires each county clerk, each city clerk and all staff of the county and city clerk whose duties include administering elections to complete an annual training class in cybersecurity. **Section 7** also requires a county clerk, city clerk or any other local election official to immediately notify the Secretary of State if there has been an attack or attempted attack on the security of an information system used by the county clerk, city clerk or other local election official.

Sections 8 and 14 of this bill require that in a county or city which uses electronic rosters, the county and city clerks must complete a test of the electronic rosters to ensure the functionality of the rosters before the first day of early voting.

Existing law declares any record of a state agency identifying the detection of, investigation of or response to a suspected or confirmed threat or attack on the security of an information system to be confidential. (NRS 480.940) **Section 9** of this bill provides that any record of the Secretary of State which relates to the security of an information system used for elections, including records relating to the preparation for or prevention of a threat or attack on the security of an information system is not a public record and may only be disclosed under certain circumstances.

Existing law prohibits a county or city clerk from disclosing certain voter information, including the voter's social security information, driver's license or identification card number or the electronic mail address. (NRS 293.558) **Sections 10 and 13** of this bill provide that, under certain circumstances, any signature or facsimile thereof of a voter or a candidate provided to the Secretary of State, county clerk or city clerk is not a public record. **Sections 12, 15 and 16** of this bill make conforming changes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive of this act.

Sec. 2. *"Information system" has the meaning ascribed to it in NRS 480.906.*

Sec. 3. *"Risk-limiting audit" means an audit protocol that:*
1. Makes use of statistical principles and methods; and
2. Is designed to limit the risk of certifying an incorrect election outcome.

Sec. 4. *"Security of an information system" has the meaning ascribed to it in NRS 480.910.*

Sec. 5. *The Secretary of State shall adopt regulations for conducting a risk-limiting audit of an election, which may include, without limitation:*

- 1. Procedures to conduct a risk-limiting audit;*
- 2. Criteria for which elections must be audited; and*
- 3. Criteria to determine the scope of the risk-limiting audit.*



1 **Sec. 6.** *In accordance with the regulations adopted by the*
2 *Secretary of State pursuant to section 5 of this act, each county*
3 *clerk shall conduct a risk-limiting audit of the results of an*
4 *election prior to the certification of the results of the election*
5 *pursuant to NRS 293.395.*

6 **Sec. 7.** 1. *Each county clerk, each city clerk and all staff of*
7 *the county or city clerk whose duties include administering an*
8 *election must complete a training class each year on cybersecurity*
9 *which is approved by the Secretary of State.*

10 2. *If a county clerk, city clerk or other local election official*
11 *identifies or is informed of a confirmed attack or attempted attack*
12 *on the security of an information system used by the county clerk,*
13 *city clerk or other local election official, the county clerk, city*
14 *clerk or other local election official must immediately notify the*
15 *Secretary of State regarding such attack or attempted attack.*

16 **Sec. 8.** *If a county clerk uses an electronic roster, not earlier*
17 *than 2 weeks before and not later than 5 p.m. on the day before*
18 *the first day of the period for early voting by personal appearance,*
19 *the county clerk shall complete a test of the electronic roster to*
20 *ensure its functionality in accordance with regulations adopted by*
21 *the Secretary of State.*

22 **Sec. 9.** *Any record of the Secretary of State or a county clerk*
23 *or city clerk which relates to the security of an information system*
24 *used for elections, including, without limitation, risk assessments,*
25 *vulnerability assessments and any other information which*
26 *identifies the preparation for or prevention of a threat or attack on*
27 *an information system used for elections is confidential and not a*
28 *public record pursuant to chapter 239 of NRS and may be*
29 *disclosed by the Secretary of State only to another state agency or*
30 *local government, a cybersecurity incident response team*
31 *appointed pursuant to NRS 480.928 and appropriate law*
32 *enforcement or prosecuting attorneys and only for the purpose of*
33 *preparing for and mitigating risks to, and otherwise protecting, the*
34 *security of elections or as part of a criminal investigation.*

35 **Sec. 10.** *Any signature or facsimile thereof of a voter or*
36 *candidate provided to the Secretary of State, county clerk or city*
37 *clerk pursuant to this title is not a public record pursuant to*
38 *chapter 239 of NRS.*

39 **Sec. 11.** NRS 293.010 is hereby amended to read as follows:
40 293.010 As used in this title, unless the context otherwise
41 requires, the words and terms defined in NRS 293.013 to 293.121,
42 inclusive, *and sections 2, 3 and 4 of this act* have the meanings
43 ascribed to them in those sections.



Sec. 12. NRS 293.391 is hereby amended to read as follows:

293.391 1. The voted ballots, rejected ballots, spoiled ballots, challenge lists, records printed on paper of voted ballots collected pursuant to NRS 293B.400, and stubs of the ballots used, enclosed and sealed, must, after canvass of the votes by the board of county commissioners, be deposited in the vaults of the county clerk. The records of voted ballots that are maintained in electronic form must, after canvass of the votes by the board of county commissioners, be sealed and deposited in the vaults of the county clerk. The tally lists collected pursuant to this title must, after canvass of the votes by the board of county commissioners, be deposited in the vaults of the county clerk without being sealed. All materials described by this subsection must be preserved for at least 22 months, and all such sealed materials must be destroyed immediately after the preservation period. A notice of the destruction must be published by the clerk in at least one newspaper of general circulation in the county not less than 2 weeks before the destruction.

2. Unused ballots, enclosed and sealed, must, after canvass of the votes by the board of county commissioners, be deposited in the vaults of the county clerk and preserved for at least the period during which the election may be contested and adjudicated, after which the unused ballots may be destroyed.

3. ~~{The}~~ *Except as otherwise provided in NRS 293.558, the* rosters ~~{containing the signatures of those persons who voted in the election}~~ and the tally lists deposited with the board of county commissioners are subject to the inspection of any elector who may wish to examine them at any time after their deposit with the county clerk.

4. A contestant of an election may inspect all of the material regarding that election which is preserved pursuant to subsection 1 or 2, except the voted ballots and records printed on paper of voted ballots collected pursuant to NRS 293B.400 which are deposited with the county clerk.

5. The voted ballots and records printed on paper of voted ballots collected pursuant to NRS 293B.400 which are deposited with the county clerk are not subject to the inspection of anyone, except in cases of a contested election, and then only by the judge, body or board before whom the election is being contested, or by the parties to the contest, jointly, pursuant to an order of such judge, body or board.

Sec. 13. NRS 293.558 is hereby amended to read as follows:

293.558 1. The county or city clerk shall disclose the identification number of a registered voter to the public, including, without limitation:



(a) In response to an inquiry received by the county or city clerk; or

(b) By inclusion of the identification number of the registered voter on any list of registered voters made available for public inspection pursuant to NRS 293.301, 293.440, 293.557, 293C.290 or 293C.542.

2. The county or city clerk shall not disclose:

(a) The social security number or the driver's license or identification card number of a registered voter, and such a number is confidential and is not a public book or record within the meaning of NRS 239.010.

(b) An electronic mail address provided by a registered voter to carry out any state or federal law relating to the voting process, and such an electronic mail address is confidential and is not a public book or record within the meaning of NRS 239.010. The county or city clerk may not release a registered voter's electronic mail address to a third party and may use such an electronic mail address only to:

(1) Communicate with the registered voter about the voting process, including, without limitation, as necessary to carry out the provisions of chapter 293D of NRS; and

(2) Distribute a sample ballot to the registered voter by electronic means if the county or city clerk has established a system for distributing sample ballots by electronic means pursuant to NRS 293.565 or 293C.530 and the registered voter elects to receive a sample ballot by electronic means.

(c) The signature or facsimile thereof of a registered voter provided on the registered voter's application to register to vote, and such signature is confidential and is not a public book or record within the meaning of NRS 239.010.

3. A registered voter may submit a written request to the county or city clerk to have his or her address and telephone number withheld from the public. Upon receipt of such a request, the county or city clerk shall not disclose the address or telephone number of the registered voter to the public, including, without limitation:

(a) In response to an inquiry received by the county or city clerk; or

(b) By inclusion on any list of registered voters made available for public inspection pursuant to NRS 293.301, 293.440, 293.557, 293C.290 or 293C.542.

4. No information relating to a registered voter may be withheld from the public other than:

(a) The address and telephone number of the registered voter if requested by the registered voter pursuant to this section;



(b) An electronic mail address provided by the registered voter to carry out any state or federal law relating to the voting process;

(c) The social security number and driver's license or identification card number of the registered voter; ~~and~~

(d) *The signature or facsimile thereof of the registered voter; and*

(e) Any other information relating to the registered voter that any state or federal law declares to be confidential or otherwise requires to be withheld from the public.

Sec. 14. Chapter 293C of NRS is hereby amended by adding thereto a new section to read as follows:

If a city clerk uses an electronic roster, not earlier than 2 weeks before and not later than 5 p.m. on the day before the first day of the period for early voting by personal appearance, the city clerk shall complete a test of the electronic roster to ensure its functionality in accordance with regulations adopted by the Secretary of State.

Sec. 15. NRS 293C.390 is hereby amended to read as follows:
293C.390 1. The voted ballots, rejected ballots, spoiled ballots, challenge lists, records printed on paper of voted ballots collected pursuant to NRS 293B.400, and stubs of the ballots used, enclosed and sealed, must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk. The records of voted ballots that are maintained in electronic form must, after canvass of the votes by the governing body of the city, be sealed and deposited in the vaults of the city clerk. The tally lists collected pursuant to this title must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk without being sealed. All materials described by this subsection must be preserved for at least 22 months, and all such sealed materials must be destroyed immediately after that period. A notice of the destruction must be published by the city clerk in at least one newspaper of general circulation in the city or, if no newspaper is of general circulation in that city, in a newspaper of general circulation in the nearest city, not less than 2 weeks before the destruction of the materials.

2. Unused ballots, enclosed and sealed, must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk and preserved for at least the period during which the election may be contested and adjudicated, after which the unused ballots may be destroyed.

3. ~~The~~ *Except as otherwise provided in NRS 293.558, the rosters containing the signatures of those persons who voted in the election* and the tally lists deposited with the governing body of the



city are subject to the inspection of any elector who may wish to examine them at any time after their deposit with the city clerk.

4. A contestant of an election may inspect all of the material relating to that election which is preserved pursuant to subsection 1 or 2, except the voted ballots and records printed on paper of voted ballots collected pursuant to NRS 293B.400 which are deposited with the city clerk.

5. The voted ballots and records printed on paper of voted ballots collected pursuant to NRS 293B.400 which are deposited with the city clerk are not subject to the inspection of any person, except in cases of a contested election, and only by the judge, body or board before whom the election is being contested, or by the parties to the contest, jointly, pursuant to an order of the judge, body or board.

6. As used in this section, "vaults of the city clerk" means any place of secure storage designated by the city clerk.

Sec. 16. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379,



1 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
2 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247,
3 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180,
4 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495,
5 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
6 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035,
7 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315,
8 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698,
9 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535,
10 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484,
11 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
12 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
13 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
14 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170,
15 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
16 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140,
17 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
18 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
19 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940,
20 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363,
21 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452,
22 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964,
23 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710,
24 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341,
25 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,
26 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,
27 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368,
28 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055,
29 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087,
30 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730,
31 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190,
32 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170,
33 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870,
34 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092,
35 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375,
36 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033,
37 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115,
38 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450,
39 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122,
40 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270,
41 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077,
42 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
43 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190,
44 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420,
45 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320,



704B.325, 706.1725, 706A.230, 710.159, 711.600, *and sections 9 and 10 of this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 17. 1. The Secretary of State shall develop a pilot program for conducting a risk-limiting audit of the results of the 2020 general election.

2. The Secretary of State may require each county clerk to participate in the pilot program developed pursuant to subsection 1 and conduct a risk-limiting audit of the results of the 2020 general election.



- 1 **Sec. 18.** The provisions of NRS 354.599 do not apply to any
2 additional expenses of a local government that are related to the
3 provisions of this act.
- 4 **Sec. 19.** 1. This section, and sections 1 to 5, inclusive, and 7
5 to 18, inclusive, of this act become effective on July 1, 2019.
- 6 2. Section 6 of this act becomes effective on January 1, 2022.

