

April 21, 2023

Assembly Committee on Legislative Operations and Elections  
Nevada Legislature  
401 S Carson Street  
Carson City, NV 89701  
*Via email*

RE: Verified Voting Urges Nevada Legislature Not to Ban Hand-Marked Paper Ballots for In-Person Voters

Dear Committee Members,

On behalf of Verified Voting, I submit these comments on Assembly Bill 242. Verified Voting is a nonpartisan nonprofit organization whose mission is to strengthen democracy for all voters by promoting the responsible use of technology in elections. We believe that the integrity and strength of our democracy rely on citizens' trust that each vote is counted as cast.

Nevada is a leader by proactively providing a paper vote-by-mail ballot to all registered voters. However, AB 242 proposes that "all votes cast in person at a polling place at any election must be cast using a mechanical voting system and not by the marking of a paper ballot."<sup>1</sup> Hand-marked paper ballots (HMPB) tallied by optical scanners provide the easiest way for most voters to verify their votes, and they provide resilience against errors in or doubts about the vote count through routine post-election audits. We believe that in-person voters are best served by access to HMPB, supplemented by voter-verifiable Ballot Marking Device (BMD) systems that provide assistive technology for voters who desire or need this method to mark their ballot.

Experts agree that paper-based voting systems are fundamental to election security. In a joint statement issued in November 2020, members of the Election Infrastructure Government Coordinating Council (GCC) Executive Committee and Election Infrastructure Sector Coordinating Council (SCC) said, "When states have close elections, many will recount ballots. All of the states with close results in the 2020 presidential race have paper records of each vote, allowing the ability to go back and count each ballot if necessary. This is an added benefit for security and resilience. This process allows for the identification and correction of any mistakes or errors."<sup>2</sup> As you know, most in-person Nevada voters use Direct Recording

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<sup>1</sup> A.B. 242, 2023 Leg., 82nd Sess. (Nev. 2023), available at <https://www.leg.state.nv.us/App/NELIS/REL/82nd2023/Bill/10000/Text>.

<sup>2</sup> *Joint Statement from Elections Infrastructure Government Coordinating Council & the Election Infrastructure Sector Coordinating Executive Committees*, Cybersecurity & Infrastructure Security Agency (Nov. 12, 2020),

Electronic (DRE) machines equipped with external Voter-Verifiable Paper Audit Trail (VVPAT) printers. Although these systems do provide auditable paper records of each vote, the voter's VVPAT is retained behind a window off to the side of the main voting interface, making it more difficult for voters to verify their record – especially if rushed to do so when other voters are waiting to use the machine. The harder it is for voters to verify their ballots, the easier it may be to undermine public confidence that their votes were recorded accurately. For these reasons, we believe the use of hand-marked paper ballots by in-person voters is generally to be encouraged, not banned.

Thank you for considering these comments. We urge you to vote against prohibiting the use of hand-marked paper ballots for in-person voters. The use of hand-marked paper ballots – when tallied by optical scanners and supplemented by voter-verifiable BMDs – serves voters well and forms the basis of a resilient election system. We look forward to future opportunities to work with Nevada officials in implementing secure, trustworthy election procedures. Please do not hesitate to contact us with any questions.

Sincerely,

C.Jay Coles  
Senior Policy & Advocacy Associate

cc:

The Honorable Steve Yeager, Speaker, Nevada State Assembly  
The Honorable Pat Spearman, President Pro Tempore, Nevada State Senate  
The Honorable Francisco Aquilar, Secretary of State, State of Nevada  
Joint Interim Standing Committee on Legislative Operations and Elections, Nevada Legislature

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<https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>.