

## **Exhibit 3: Reference Documents**

**Exhibit 3, Section A:** Concerning Election System Complaints Under  
NV Title 24 Provisions

**Exhibit 3, Section B:** 42 USC 15481 Voting System Standards

**Exhibit 3, Section C:** NRS References

**Exhibit 3 With Its 3 Sections Constitute 11 pages.**

## **EXHIBIT 3, Section A: CONCERNING ELECTION COMPLAINTS UNDER NEVADA TITLE 24**

Prepared by CTFVR Chair, Robert E. Frank for the Petitioners

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Considerations were given to filing a formal complaint on this matter under Nevada Title 24 with the Secretary of State (SoS) as described [under the policies stated on its web site](#):

*“The Secretary of State’s Office oversees Nevada’s Elections and is constantly monitoring elections activities. However, we also rely on the help of citizens to report violations of Title 24 (Nevada’s Elections Laws) of the Nevada Revised Statutes. To facilitate this process, the Secretary of State has developed a statewide complaint system to address allegations involving a violation of any provision of Title 24.*

*To initiate the process, a formal complaint must be received by the Secretary of State, and identify the person making the complaint. The complaint must set forth the alleged violation of law and identify the party responsible for the violation, as well as set forth dates and times of specific occurrences, if practicable. Upon receiving the formal complaint in the Secretary of State’s office either by conventional mail, email, facsimile or hand delivery, the Secretary of State’s office shall begin the resolution process.*

*Under this process any person may file a complaint who believes that there has been a violation, a violation is occurring or a violation will be occurring related to any provision Title 24. These procedures shall be uniform and non-discriminatory. If under these procedures the Secretary of State determines that there is a violation, an appropriate remedy shall be provided to the extent permitted by law. If the Secretary of State determines that the complaint does not allege a violation, the Secretary of State may dismiss the complaint or refer it to the proper agency for resolution. The complainant will be notified of any action taken by the Secretary of State.”*

But, it was considered impossible to file a Title 24 complaint in this case. Before being allowed to conduct a manual audit of sealed ballot records and comparison with electronic votes, there has been no way for anyone to obtain the required kinds of evidence to be able to submit a case under an administrative, criminal or civil law complaint.

Within the very few days allowed by statute, without access to the involved election records, without access to effective audit records (as described in Exhibit B10) and with limited funds, it seems that nothing can be done.

As a result, Nevada Title 24 policies and procedures for a race recount and/or validation of electronic voting reports must be considered ineffective and unaffordable. Few, if any, candidates could or would comply with such an apparently flawed process.

And, it is difficult to understand why Legislative and Executive Branch election system leaders are not more concerned with the appearance of personal conflicts of interest since they create the rules, enforce the rules, and judge the complaints. There seems to be little fear of external forces finding evidence of election system employees and contractors of being guilty of anything.

We will work with the Legislature in the future on law remedies, but for now, this petition for a manual comparison of records seems to be the only hope for discovering the truth and dealing with the unreasonable electronic results reported by that primary election. It has been concluded that if there was a system failure or fraud in that federal race primary, it can only be revealed through a joint manual review controlled by a County Clerk and authorized by a District Judge. Otherwise, methods of finding the truth appear inaccessible to voters and harmed parties.

Petitioners believe no one should oppose our basic rights to know the truth about the integrity of our elections system. What could be legitimately gained by anyone from blocking release of the whole truth? And, why would counties be required to keep the records for 22 months if not to be able to perform such important inspections and audits?

Petitioners also believe the Nevada Secretary of State and elections system managers at all levels in all counties should welcome the requested court action. If the manual records match the electronic reports, as they should, and there is no evidence of system failure or illegal tampering, everyone should rejoice.

If they fail to match, all persons should enthusiastically team together to identify the problems and get them fixed before the next election cycle. No one should stand for supporting the policy of continuing to hide the truth and allowing our election system to be considered untrustworthy by so many.

And, although some might believe the involved statutes might be considered ambiguous about specifically allowing the action requested in this petition, we believe the statutes do not prohibit such good faith efforts on behalf of elected officials and well-reasoned citizens.

We also believe that regardless of any legal objections presented by anyone, the 7<sup>th</sup> District Court has the authority and judicial duty to order the recommended joint review team to perform the county-limited tasks as we have proposed and as have been stipulated by the White Pine County Clerk.

Even if the statutes may appear unclear in some cases, we are compelled to ask for assistance. We believe NV statutes do not prohibit the good faith actions requested by a County in this case. And, there appears to be no other way to protect the rights of White Pine County voters and government officials from similar problems in future elections.

**Exhibit 3, Section B: Federal Stds. for Voting Machines That NV Appears to be Ignoring**

**SEC. 301. NOTE: 42 USC 15481. VOTING SYSTEMS STANDARDS.**

**(a) Requirements.--Each voting system used in an election for Federal office shall meet the following requirements:**

(1) In general.--

(A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall--

(i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;

(ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and

(iii) if the voter selects votes for more than one candidate for a single office--

(I) notify the voter that the voter has selected more than one candidate for a single office on the ballot;

(II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and

(III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

(B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by--

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(i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and

(ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).

**(C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.**

(2) Audit capacity.--

**Exhibit 3b Note 1: These few federal voting systems standards are cited in this petition because despite public expertise, many in the State do not believe there are vulnerabilities and shortcomings in its election system. NV also blocks allowing the paper ballot records from being available for all types of recounts and/or system level audits of elections. Citizens concerned about inexplicable voting reports have to ask the courts to allow the opening and manually auditing of sealed ballot records to see if they match the electronic voting reports.**

**The Nevada Legislature and Executive Branch also ignore recommended audit policies by federal and local experts reported in other Exhibits. NV received over \$140 Mil. for fed. elections; but, little, if any, seems to have been spent to repair the known serious defects in voting machines, obsolete memory cards and vendor proprietary software.**

(A) In general.--The voting system shall produce a record with an audit capacity for such system.

(B) Manual audit capacity.--

(i) The voting system shall produce a permanent paper record with a manual audit capacity for such system.

(ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.

(iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used.

(3) Accessibility for individuals with disabilities.--The voting system shall--

(A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;

(B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and

(C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph).

(4) Alternative language accessibility.--The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a).

(5) Error rates.--The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act.

(6) Uniform definition of what constitutes a vote.--Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be

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counted as a vote for each category of voting system used in the State.

(b) Voting System Defined.--In this section, the term "voting system" means--

(1) the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used--

- (A) to define ballots;
- (B) to cast and count votes;
- (C) to report or display election results; and
- (D) to maintain and produce any audit trail information; and
- (2) the practices and associated documentation used--
  - (A) to identify system components and versions of such components;
  - (B) to test the system during its development and maintenance;
  - (C) to maintain records of system errors and defects;
  - (D) to determine specific system changes to be made to a system after the initial qualification of the system; and
  - (E) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots).
- (c) Construction.--
  - (1) In general.--Nothing in this section shall be construed to prohibit a State or jurisdiction which used a particular type of voting system in the elections for Federal office held in November 2000 from using the same type of system after the effective date of this section, so long as the system meets or is modified to meet the requirements of this section.
  - (2) Protection of paper ballot voting systems.--For purposes of subsection (a)(1)(A)(i), the term "verify" may not be defined in a manner that makes it impossible for a paper ballot voting system to meet the requirements of such subsection or to be modified to meet such requirements.
- (d) Effective Date.--Each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1, 2006.

**Exhibit 3b Note 2: All hardware and software components used to conduct Nevada elections are not disclosed to the public. This makes such items high risk components and makes it impossible to conduct independent audits and/or security assessments of the system. The state also does not use outside CPAs or Fraud Examiners to validate its work. Such secrecy creates distrust. This is dangerous in a claimed secure system where electronic systems are known to be vulnerable to cyber attacks and fraud. This item is included in the petition evidence because there are some state and county employees with high conflicts of interest who strongly resist manual validations by the public.**

# Exhibit 3, Section C: Statute References

Prepared by CTFVR Chair Robert E. Frank for Petitioners

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- NRS293 TITLE 24 ELECTIONS

<http://www.leg.state.nv.us/nrs/nrs-293.html>

- NRS 293.391 Disposition and inspection of ballots, lists, records and stubs of voted ballots after canvass by county commissioners.

*“5. The voted ballots 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.”*

<http://www.leg.state.nv.us/nrs/nrs-293.html#NRS293Sec391>

- NRS 293B MECHANICAL VOTING SYSTEMS

<https://www.leg.state.nv.us/nrs/NRS-293B.html>

- NRS 293B 330 Processing of Ballots

**NRS 293B.355**

*“Responsibility for proper operation and use of computer or counting device owned or leased by State. When a computer or counting device owned or leased by the State of Nevada is used to count ballots, the county or city clerk and computer facility manager shall determine that such use complies with the provisions of this chapter. The clerk shall exercise his or her authority in a manner consistent with established procedures for the operation and use of the computer, so far as is practicable.”*

**Petitioner Note:** Authority and responsibility for the functions required of the County Clerk in NRS293B.355 is not limited to the election period. If needed to

protect the integrity of White Pine elections, it seems the WPCC could operate through such boards whenever needed.

- NRS293B.360 & NRS293.365 Creation & Duties of Central Ballot Inspection Boards.

<https://www.leg.state.nv.us/nrs/NRS-293B.html#NRS293BSec360>

- NRS 293B.360 Creation of special election boards; appointment of members to boards.

*"1. To facilitate the processing and computation of votes cast at any election conducted under a mechanical voting system, the county clerk shall create a computer program and processing accuracy board, and may create:*

*(a) A central ballot inspection board;*

*(b) An absent ballot mailing precinct inspection board;*

*(c) A ballot duplicating board;*

*(d) A ballot processing and packaging board; and*

*(e) Such additional boards or appoint such officers as the county clerk deems necessary for the expeditious processing of ballots.*

*2. Except as otherwise provided in subsection 3, the county clerk may determine the number of members to constitute any board. The county clerk shall make any appointments from among competent persons who are registered voters in this State. The members of each board must represent all political parties as equally as possible. The same person may be appointed to more than one board but must meet the particular qualifications for each board to which he or she is appointed.*

*3. If the county clerk creates a ballot duplicating board, the county clerk shall appoint to the board at least two members. The members of the ballot duplicating board must not all be of the same political party.*

*4. All persons appointed pursuant to this section serve at the pleasure of the county clerk.*

*(Added to NRS by 1975, 1529; A 1981, 1701; 1985, 1106; 2001, 2033)*

***NRS 293B.365 Duties of central ballot inspection board. The central ballot inspection board shall:***

- 1. Receive the ballots in sealed containers.***
- 2. Inspect the containers, record the number indicated on each container and its seal pursuant to NRS 293.462 and remove the storage devices which store the ballots voted on mechanical recording devices which directly record votes electronically.***
- 3. Register the numbers of ballots by precinct.***
- 4. Deliver any damaged paper ballots to the ballot duplicating board.***
- 5. Receive duplicates of damaged paper ballots from the ballot duplicating board and place the duplicates with the voted ballots of the appropriate precinct.***
- 6. Place each damaged original paper ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct.***
- 7. Reject any paper ballot that has been marked in a way that identifies the voter.***
- 8. Place each rejected paper ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the board's rejection of the ballot.***

***(Added to NRS by 1975, 1529; A 1985, 1107; 1995, 2791; 2007, 1169, 2608)"***

- NRS 293B.385 Computer program and processing accuracy board: Appointment; duties.**

***"1. The county clerk shall appoint the members of the computer program and processing accuracy board no later than 7 days before the election in which they will serve.***

**2. The board shall verify that:**

**(a) Any invalid voting of a ballot will cause it to be rejected.**

**(b) Votes can be counted for each candidate and proposition.**

**(c) Any overvote for an office or proposition will cause a rejection of the vote for that office or proposition.**

**(d) Where multiple votes may be cast, the maximum number of votes permitted a voter cannot be exceeded without rejecting the vote for that selection, but any undervote will be counted.**

**(e) Neither a voter's omission to vote nor the voter's irregular vote on any particular office or proposition will prevent the counting of his or her vote as to any other office or proposition on the ballot.**

***(Added to NRS by 1975, 1530; A 1981, 1702; 1985, 1108)"***

**Petitioner Note: We believe this provision of NRS293B.385 could allow the County Clerk to appoint such a computer accuracy and processing board immediately after approval of this requested court order for the purpose of serving until completion of the next election process.**

**Such board members could be included as participants in the Joint Review Team activities to further improve the results of the review of the past election, and to establish White Pine County continuity for establishing future improvements in election system integrity and public trustworthiness.**

- **NRS293B390 Accuracy Certification Board**

***"NRS 293B.390 Additional duties of accuracy certification board. In addition to the duties prescribed in NRS 293B.145, 293B.155, 293B.165 and 293C.615, the accuracy certification board shall certify as to whether in their judgment the ballots were accurately counted. If they determine an inaccuracy exists, they shall furnish a written explanation for their determination.***

***(Added to NRS by 1975, 1531; A 1985, 1108; 1997, 3471)"***

**Petitioner Note: We believe this provision of NRS293B.390 is not practical.**

**There appears to be no effective tools provided for such an Accuracy Board to function effectively. And, it is likely that simple reviews of the digital output of machine processing are of little or no value for detecting fraud. With no hard evidence, little time available during the election period, and insufficient technical training on how to recognize election system fraud, such boards would find it normal to report “no problems” to higher authorities.**

**Since it appears that counties are not provided with the essential tools to accomplish accurate analyses of the results reported by electronic components of the Nevada election system, county clerks should feel free to consider developing their own tools to assist them in performing such vital functions.**

**A future task of a Joint Review Group might be to assist the WP County Clerk with helping to find and/or develop some of the urgently needed tools. Once the review is completed there may be clues on what went wrong. If so, the facts can be analyzed and conclusions formulated for the future by the group on a volunteer basis. CTFVR is prepared to assist with such activities, if desired.**