

TESTIMONY

BEFORE THE LEGISLATURE OF THE VIRGIN ISLANDS

**Committee on Government Operations, Veterans Affairs, and
Consumer Protection**

January 23, 2026



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ELECTIONS SYSTEM OF THE VIRGIN ISLANDS**

1 Introduction

2 Good morning, Honorable Chairman Avery L. Lewis, distinguished
3 members of the Committee, colleagues, members of the press, and
4 the public. I am Caroline F. Fawkes, Supervisor of Elections for the
5 Virgin Islands, a Certified Elections Registration Administrator
6 (CERA).

7 I appreciate this opportunity to provide testimony on Bill No. 36-
8 0187, which proposes amending Title 18, Virgin Islands Code,
9 Chapter 23, Section 622 to require the Board of Elections to count
10 by hand votes deposited in a ballot box.

11 Election integrity in the Virgin Islands depends on voting systems
12 that are scalable, secure, and defensible—hand counting is none of
13 those.

14 **Core Election Principle**

15 A comprehensive election integrity approach should strengthen
16 existing systems rather than replace them with less efficient
17 methods.

18 Elections rely on three components: people, processes, and
19 technology. When these elements work together, supported by audits
20 and transparency, they deliver accurate, timely, and trustworthy

21 results. Mandating hand counts as the primary method of tabulation
22 does not strengthen election integrity. It undermines it.

23

24 **Key Risks of Hand-Counting Ballots**

25 **1. Accuracy Issues**

26 • **Human error:** Fatigue, distraction, or bias can lead to
27 miscounts, especially when tallying thousands of ballots.

28 • **Complex ballots:** Modern elections often include multiple races
29 and propositions, making manual tallying prone to mistakes.

30 **2. Time and Efficiency Problems**

31 • **Slow process:** Counting by hand is far slower than using
32 certified machines, delaying results for days or weeks.

33 • **Scalability limits:** Hand counting ballots does not scale
34 effectively. As turnout increases or ballots become longer, the
35 time, staffing, space, and supervision required for hand counts
36 grow exponentially.

37 **3. Transparency and Trust Concerns**

38 • **Inconsistent procedures:** Without standardized methods,
39 different teams may interpret ballots differently, undermining
40 fairness.

- **Public confidence risk:** Errors or delays can fuel conspiracy theories and reduce trust in election outcomes.

43

44 4. Resource Strain

- **Labor-intensive:** Hand counts require large numbers of trained counters, often working long hours under pressure, while the public and the candidates await Election night results.
- **Costly logistics:** Organizing secure facilities, supervision, and recounts adds significant expense compared to machine tabulation.
- **Security Vulnerabilities:** Increased handling of ballots raises risks of tampering or accidental damage.

53 It is important to note that most hand counted ballots are from
54 recounts or ballots which a tabulator cannot read.

⁵⁵ American Samoa is the only U.S. territory which hand count votes.

56 They only have three contests on their ballot (Governor/Lt. Governor,

57 Delegate to Congress, and Legislature) with a total average voter of
17,520. The Capital and its suburbs had a total average voter of 10,000.

61 process of canvassing. In the past, the Virgin Islands have had eight
62 (8) contests on a ballot, including a referendum. We have a total
63 average voter of 22, 244. We have 55,955 registered voters; we must
64 plan as if all 55,955 voters are going to participate in all elections.

65 Across the nation, the use of hand counting ballots is decreasing and
66 is considered the least effective way of counting ballots.

67 According to Mr. Charles Stewart III, who directs the MIT Election
68 Data and Science Lab, I quote “Computers – which ballot scanners
69 rely on are particularly good at tedious, repetitive tasks. Humans are
70 bad at them.” Close quote.

71 Real-world hand counts have produced error rates as high as 25
72 percent. Hand counts introduce variability in ballot interpretation
73 and increase the likelihood of challenges, delays, and litigation,
74 particularly in close or high-turnout elections.

75 **The Proper Role of Hand Counts**

76 Hand counting does have a legitimate role, but that role is audits and
77 recounts, not primary tabulation.

78 The Virgin Islands has conducted post-election audits since 2014.
79 Election audits are a critical component of a secure and trustworthy
80 election system. They provide independent verification that election

81 results accurately reflect the votes cast by comparing machine
82 tabulation results with voter-marked paper ballots. Audits reinforce
83 public confidence by demonstrating that election outcomes are not
84 accepted on faith alone, but are confirmed through transparent,
85 documented review procedures conducted under established rules.
86 Audits also preserve the benefits of modern election technology while
87 maintaining accountability. Electronic tabulation allows for speed,
88 consistency, and efficiency on election night, while post-election
89 audits provide a safeguard against rare errors or anomalies before
90 certification. This balanced approach avoids unnecessary delays in
91 reporting results and reduces the risks associated with full hand
92 counts, such as increased costs, staffing burdens, and human error.
93 Importantly, audits are transparent, cost-effective, and legally
94 defensible. They are conducted in a manner open to observation and
95 are structured to expand if discrepancies are identified, providing a
96 clear corrective path when needed. Routine audits strengthen the
97 integrity of the electoral process, support continuous improvement
98 in election administration, and align with nationally recognized best
99 practices for accurate, secure, and credible elections.

100 This hybrid approach—electronic tabulating machines first, hand
101 counts when warranted is the national best practice.

102

103 **Time of Ballot Counting**

104 Bill No 36-0187 states “Ballots may not be counted before 8:00 p.m.
105 on the day of the election.” This Bill also restricts when counting
106 may begin on Election Day from 7:00 p.m. to 8:00 p.m. Delaying
107 counting unnecessarily can increase skepticism and confusion,
108 rather than confidence.

109 Delaying the start of ballot counting from 7:00 p.m. to 8:00 p.m.
110 introduces unnecessary inefficiencies into the election-night process
111 without providing any corresponding enhancement to election
112 security or integrity. This one-hour delay reduces available
113 tabulation time, pushes unofficial results later into the evening or
114 early morning, and compresses subsequent reconciliation and
115 canvassing activities. Even modest delays can compound across
116 precincts and districts, slowing the overall reporting process and
117 placing additional strain on election administration.

118 A delayed start also increases administrative and fiscal burdens.
119 Election workers are required to remain on duty longer, increasing

120 fatigue at a critical stage of the process and driving overtime and
121 staffing costs. Fatigue is a recognized risk factor for clerical and
122 reconciliation errors, particularly after an extended Election Day.
123 These risks are avoidable when tabulation is permitted to begin
124 promptly upon the close of polls.

125 Finally, delays in counting can negatively affect public confidence. In
126 modern elections, prolonged gaps between poll closure and reporting
127 often invite speculation, misinformation, and doubt, even when the
128 process is functioning properly. In close or high-profile contests,
129 delayed reporting may also increase the risk of legal challenges and
130 public controversy. Permitting timely tabulation supports
131 transparency, reduces unnecessary uncertainty, and strengthens
132 trust in the electoral process without compromising accuracy or
133 security.

134 **The DS200 Precinct Tabulator**

135 The DS200 tabulator strengthens transparency and does not replace
136 it.

137 Key features include:

138

- Voter-marked paper ballots retained as permanent records
- Secure ballot storage with tamper-evident seals

139

140 • Encrypted data and detailed audit logs
141 • Pre- and post-election testing
142 • Full federal certification under EAC standards
143 • By minimizing ballot handling and maximizing auditability, the
144 DS200 tabulator reduces risk and improves accuracy.

145 Prior to deployment, each DS200 tabulator is secured with tamper-
146 evident seals. At the close of polls at 7:00 p.m., the Presiding Judge
147 formally closes the voting center and begins the required closing
148 procedures for return to the Elections Office. The Judge removes the
149 encrypted removable media and the results tapes from the DS200
150 and places them into a sealed transport bag. The Judge is then
151 escorted by the Virgin Islands Police Department to the Elections
152 Office, maintaining documented chain-of-custody throughout
153 transport.

154 Upon arrival at the Elections Conference Room, the sealed bag is
155 opened by the Presiding Judge in full view of Board of Elections
156 members, election staff, candidates, members of the media, and the
157 public. The encrypted removable media is removed by the Judge and
158 handed directly to the Deputy Supervisor of Elections. The media is
159 then transferred to the Voting Technician, who inserts it into the

160 Electionware tabulation system for processing. The system tabulates
161 the results, generates reports, and securely transmits encrypted data
162 to St. Croix, where the Supervisor is assigned, through a secure
163 cloud-based connection, where the data is downloaded to a protected
164 computer.

165 Election results are then reviewed by election staff and the Board of
166 Elections prior to release. Once verified, the results are provided to
167 the Webmaster for posting on the official Elections System website
168 and are simultaneously made available to the media and the public.
169 This process ensures transparency, security, and public observation
170 at every stage, while preserving the integrity of the tabulation and
171 reporting process.

172 **Legal and Statutory Foundation**

173 Virgin Islands law already resolves this issue.
174 In *Bryan v. Abramson* (2010), the Superior Court of the Virgin Islands
175 held that the paper ballot system was expressly repealed by the
176 Election Reform Act of 1984, applying the long-standing last-in-time
177 rule of statutory interpretation. The Court concluded that electronic
178 voting systems lawfully replaced hand-counted paper ballots.
179 The Court further determined that:

180 There is no legal right to demand hand-counted paper ballots in lieu
181 of electronic systems.

182 The former paper ballot system was abolished as a matter of law, and
183 rules and regulations promulgated by the Supervisor of Elections and
184 the Joint Boards of Elections are fully authorized under Title 18.

185 That ruling remains controlling precedent. A copy of the Court Order
186 has been submitted along with my Testimony.

187 Additionally, Title 18, Section 524 expressly authorizes the Joint
188 Boards of Elections to adopt procedures that ensure correctness,
189 impartiality, and efficiency using electronic systems. To be sure, the
190 voters do have choices, they can vote by a paper ballot or an
191 activation card-electronic, however, they must all be “tabulated” by
192 the DS 200 Tabulator.

193 **Statutory Conflicts and Implementation Timeline**

194 If Bill No. 36-0187 were enacted, it would not operate in isolation. Its
195 requirements would conflict with multiple existing provisions of Title
196 18 of the Virgin Islands Code, as well as duly adopted rules and
197 regulations of the Joint Boards of Elections, all of which are
198 structured around electronic tabulation.

199 Passage of this bill would therefore necessitate:

200 Revisions to multiple sections of Title 18 governing ballot handling,
201 tabulation, canvassing, audits, and certification;
202 Amendments to Board of Elections regulations and procedures;
203 Revisions to election manuals, training protocols, and security
204 procedures; and
205 Procurement, staffing, and logistical changes to support a
206 fundamentally different counting system.

207 These changes cannot be implemented administratively alone. They
208 would require additional legislative action to ensure statutory
209 consistency and legal enforceability.

210 Importantly, election laws, rules, and procedures must be finalized
211 well in advance of an election. The statutory deadline for
212 implementing changes affecting the 2026 gubernatorial general
213 election cycle is April 12, 2026, because Early Voting begins on
214 October 12, 2026. Attempting to revise multiple interrelated laws and
215 operational systems within that period would pose a substantial risk
216 of confusion, inconsistent application, and legal challenge.

217 **Response to Amendment No. 36-662 (Amendment in the Nature**
218 **of a Substitute to Bill No. 36-0187) received on January 21,**
219 **2026.**

220 Amendment No. 36-662 would fundamentally alter the
221 administration of elections in the Virgin Islands by mandating voter-
222 requested paper ballots, segregated ballot boxes, and precinct-level
223 manual tabulation of those ballots. While framed as an expansion of
224 voter choice, the amendment introduces significant operational,
225 legal, and logistical risks that outweigh any asserted benefit.

226 First, the amendment creates a dual, parallel voting and tabulation
227 system at every polling place, requiring election officials to administer
228 electronic voting and manual hand counting simultaneously. This
229 disjointed process substantially increases complexity at the precinct
230 level, particularly during poll closing and results reporting. The
231 requirement that hand-marked paper ballots be manually counted at
232 the voting center immediately after polls close will delay reporting,
233 extend the workday for poll workers, and increase the likelihood of
234 errors caused by fatigue, time pressure, and inconsistent application
235 of voter-intent standards.

236 Second, the amendment imposes strict segregation and
237 reconciliation requirements that are highly vulnerable to human
238 error. The detailed accounting mandated in subsection (i) including
239 issued ballots, spoiled ballots, replacements, counted ballots, and

240 unused ballots—adds multiple reconciliation points that must be
241 performed accurately under election-night conditions. Any
242 discrepancy, however minor, risks undermining confidence in results
243 and may invite litigation or challenges, even where no fraud or
244 misconduct has occurred. Electronic tabulation systems are
245 designed specifically to reduce these reconciliation risks through
246 automated controls; this amendment moves in the opposite direction.

247 Third, the prohibition on scanning or electronically tabulating voter-
248 requested paper ballots eliminates the ability to use existing certified
249 equipment for verification or redundancy. By mandating that hand-
250 marked paper ballots may only be counted manually, the amendment
251 removes an important safeguard against arithmetic mistakes and
252 inconsistent tallying. Manual tabulation is inherently less scalable,
253 less efficient, and more susceptible to variation between voting
254 centers, particularly in high-turnout elections or multi-page ballots
255 with numerous contests.

256 Fourth, the amendment significantly increases staffing, training, and
257 cost burdens. Requiring not fewer than three election officials to
258 conduct public manual tabulation at each polling place, in addition
259 to staff needed for standard voting operations, will strain an already

260 limited pool of trained poll workers. The Virgin Islands Elections
261 System would be required to recruit, train, and retain additional
262 personnel, revise procedures, redesign training materials, and
263 expand Election Day oversight, all without clear funding provisions
264 in the amendment.

265 Fifth, the amendment creates new legal and administrative exposure
266 for the Supervisor of Elections and the Board of Elections. Mandatory
267 public hand counting at the precinct level, combined with observer
268 access, increases the risk of disputes over voter intent, interruptions,
269 and allegations of irregularities. Even when conducted properly,
270 manual tabulation processes are more difficult to defend because
271 they rely heavily on subjective judgment rather than repeatable,
272 auditable system logic. This amendment therefore increases the
273 likelihood of post-election challenges rather than enhancing
274 confidence in outcomes.

275 Finally, the amendment does not identify any failure demonstrated
276 in the current electronic tabulation system that would justify such a
277 sweeping change. Existing electronic voting systems already provide
278 auditable records, established chain-of-custody procedures, and
279 post-election verification mechanisms. Replacing or supplementing

280 the electronic tabulating systems with mandatory hand counting
281 introduces risk without addressing a documented problem, contrary
282 to best practices in modern election administration.

283 Hand counting ballots will significantly degrade election night
284 reporting and public transparency. The current electronic tabulation
285 system produces immediate, verifiable precinct-level results, showing
286 exactly how many votes were cast at each Voting Center for each
287 candidate. Hand counting eliminates this capability, replacing timely
288 and standardized reporting with delayed, fragmented results that
289 undermine voter confidence and invite unnecessary disputes.

290 Moreover, although the bill references “election night,” it fails to
291 clarify whether hand counting would also apply to early voting
292 ballots, which are currently tabulated at 7:00 p.m. This lack of clarity
293 creates serious logistical, staffing, and cost burdens. Election officials
294 would be required to conduct prolonged manual counts after a
295 workday that begins as early as 5:00 a.m., while simultaneously
296 closing Voting Centers, securing ballots, transporting sensitive
297 materials, and maintaining strict chain-of-custody requirements.
298 This is not a minor adjustment—it is an operational overhaul that
299 strains personnel, increases the likelihood of human error, delays

300 final results, and places the orderly administration of elections at
301 risk.

302 **This Proposal Creates Serious Legal Vulnerability by**
303 **Undermining the Secrecy of the Ballot.**

304 By permitting hand counting in low-turnout precincts, this bill
305 invites constitutional challenge. When only one or two ballots exist
306 for a precinct, ballot secrecy is effectively eliminated. Election officials
307 can reasonably infer how an identifiable voter cast their ballot. That
308 condition violates the fundamental right to a secret ballot and creates
309 an evidentiary trail that can be exploited in election contests, public
310 records requests, and court proceedings. The Virgin Islands would be
311 defending a system that structurally enables vote disclosure—an
312 indefensible legal position. The risk is not speculative; it is inherent
313 in the structure of precinct-level hand counting with minimal
314 participation.

315 This Amendment in the Nature of a Substitute to Bill No. 36-
316 increases complexity, cost, delay, and legal exposure, while reducing
317 efficiency, scalability, and consistency in election administration.
318 Rather than strengthening election integrity, it creates additional

319 points of failure and undermines timely, reliable, and professionally
320 administered elections in the Virgin Islands.

321 **Media** – Sample Ballot. Request media to show – the Sample Ballot.
322 Every Early Voting and Election Day ballot is annotated with a
323 Precinct name where the “Provisional” wording is. When a voter
324 checks in, election officials know the voter’s identity and which
325 Precinct ballot is issued. After voting concludes, Request Media to
326 show the Precinct Reports. (**Media – Four Pages**). Precinct Reports
327 are produced that list the Precinct name and the total number of
328 ballots cast. In low-turnout precincts or voting centers, the
329 combination of check-in records, Precinct-identified ballots, and
330 publicly available Precinct Reports creates a risk that individual
331 ballots can be correlated back to specific voters. While ballots do not
332 display voter names, this practice raises concerns about whether full
333 ballot secrecy is preserved in all voting locations.

334 **Conclusion**

335 Mandating hand counting of ballots will fundamentally disrupt
336 election night operations, erode transparency, and delay reliable
337 results. Electronic tabulation currently provides immediate,
338 precinct-level reporting that clearly shows how many votes were cast

339 at each Voting Center for each candidate—information the public
340 expects and relies upon. Hand counting eliminates this capability,
341 replacing it with delayed, labor-intensive processes that increase the
342 risk of human error and invite confusion and dispute. Compounding
343 these risks, the bill fails to clarify whether hand counting applies to
344 early voting ballots, which are presently tabulated at 7:00 p.m.,
345 creating serious logistical, staffing, and cost burdens. Election
346 officials would be forced to conduct extended manual counts after
347 workdays beginning as early as 5:00 a.m., while simultaneously
348 closing Voting Centers, securing ballots, transporting sensitive
349 materials, and preserving chain-of-custody. This is not a simple
350 policy change—it is an operational strain that jeopardizes accuracy,
351 efficiency, and public confidence in the election process.

352 Any electoral process that makes it possible to deduce how an
353 individual voted is not merely flawed—it is legally vulnerable and
354 exposes the Virgin Islands to avoidable litigation and loss of public
355 trust.

356 The experience of election officials nationwide is clear: hand counts
357 introduce critical disadvantages compared to automated tabulation.
358 The evidence is compelling and overwhelming.

359 Electronic tabulation, paired with voter-verified paper ballots, robust
360 audits, and transparency provides the best balance of accuracy,
361 security, efficiency, and public confidence.

362 As electronic voting systems continue to evolve, they hold the
363 potential to shape the future of democracy by fostering greater
364 participation and trust in electoral processes. Audit strengthen
365 elections by verifying results without slowing them down, enhancing
366 transparency without increasing risk, and building public confidence
367 without unnecessary cost.

368 Taken together, the operational demands, legal vulnerabilities, and
369 administrative realities of conducting elections in the Virgin Islands
370 require systems that are consistent, scalable, and defensible.
371 Election laws in the Virgin Islands must be grounded in how elections
372 are administered in practice, not in theory. For these reasons, hand
373 counting is not a practical or sustainable election practice for the
374 Territory.

375 For these reasons, the Office of the Supervisor of Elections strongly
376 and fully supports continued use of electronic tabulation of **all** ballots
377 in the Virgin Islands.

378 Thank you. I am prepared to answer any questions.

379 “An election process that cannot be administered consistently across
380 all districts of the Virgin Islands is not an election reform—it is an
381 operational failure waiting to happen.”