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Sent: Tuesday, July 14, 2015 4:24 PM
To: SoS Rulemaking; Margit Johansson
Subject: Comments on July 1, 2015, Revised Draft of Election Rules

Comments on Revised Draft of Election Rules, July 1, 2015
Margit Johansson
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Rule 16.2.1(c) concerns returning voted ballots by UOCAVA voters; the law from C.R.S. 2014, 1-8.3-113(a), says that returns by email or fax should only be used when a relatively more secure option such as mail is not “available or feasible”. This Rule defines the situations when mail is “not feasible” as “circumstances where the elector believes the timely return of his or her ballot by mail is not certain.”

Given what computer security experts on elections have written on the insecurity of returning voted ballots by email or fax (which these days is usually combined with email), this reliance on an elector’s belief is problematic. Email/fax returns can easily allow votes to be changed or new votes created, with no way to check vote validity.

How much does a UOCAVA elector know about the relative insecurity of email/ fax, when compared to postal mails, and how much does he/she have an awareness of the possible consequences on election results? Has an elector been informed by election officials of provisions in the 2009 MOVE Act to improve timely return of mail ballots? Have MOVE provisions for expedited mail returns been advertised and provided for by the Secretary of State? What instructions do UOCAVA electors receive advising swift return of mail ballots, and use of expedited mail?

Many military and overseas citizens have bad memories of poor mail delivery of ballots predating 2009 MOVE Act changes? These recollections could color their decisions without updated knowledge of improved voting conditions.

Would giving sole responsibility for a decision to return voted ballots by email/fax to electors mean that, in situations where fraud is intended, there would be illegitimate electors eager to make use of the electronic options for returns?

There may not be too many situations where timely mail returns are impossible, that cannot be anticipated. Election officials should work with government agencies to find out about rare cessation of or very

infrequent mail deliveries and inform voters. And they should not simply let voters make avoidable use of insecure email/fax returns.

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RULE 16.2.8 defines Internet voting as only web-based voting to the exclusion of email/fax. This has the effect of making email and fax seem less of a threat to election integrity than “real” Internet voting.

Scientists concerned with Internet voting, on the other hand, routinely include email/fax in the definition of Internet voting. After all, both web-based voting and return of voted ballots by email/fax make use of the Internet in the voting process.

For example, election experts and computer scientists Douglas W. Jones and Barbara Simons in their excellent book BROKEN BALLOTS more than once include both web-based and email returns in their definition of Internet voting. On page 269, they write “Internet voting, whether web-based or via email, involves having a computer (client), typically that of the voter, communicate via the Internet with a server.”

Also, the cogent article on Internet voting on Verified Voting’s website says: “Both e-mailing voted ballots and transmitting them through a Web portal are forms of ‘internet voting’. And with the proliferation of internet fax services, we can presume that many voted ballots returned to election official via fax have in fact been transmitted through the Internet. Internet voting thus can mean voting from an internet browser from one’s personal computer, or by email attachment, or electronic fax, remote kiosk, or other means of remote electronic transmission. A voted ballot sent through the Internet is no more verifiable than a polling place ballot cast on a paperless direct-recording electronic voting machine --- and in fact is exposed to a far greater number of security threats including cyber-attacks such as modification in transit, denial of service, spoofing, automated vote-buying, and viral attacks on voter PCs.”

This Rule, not science-based, doesn’t bring the Secretary closer to fulfilling his legislative mandate as recorded in **C.R.S 1-1-107. Powers and duties of secretary of state...** (5) The provisions of this section are enacted, pursuant to section 11 of article VII of the state constitution, to secure the purity of elections and to guard against the abuses of the elective franchise.

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