

My name is Patrick Colbeck. I am a former MI State Senator for the citizens of the 7th State Senate District for two terms. During my second term in the Michigan Senate, I served as Vice Chair of the Senate Elections and Government Reform committee. Prior to my service in the Michigan Senate, I had a successful aerospace engineering and management career supplemented by certification as a Microsoft Small Business Specialist. During the 2020 election, I served as a certified poll challenger at the TCF Center in Detroit, MI. In short, I have a unique blend of experience with Michigan election law and election practices coupled with professional experience with information technology.

Upon receiving notice of the proposed Michigan Department of State rules for Electronic Voting Systems which are the topic of discussion for this hearing, I proceeded to conduct a thorough review of the proposed rules which I have documented in the 126-page document that I have shared with the committee. My review evaluated the compliance of the proposed rules with the Michigan Constitution, current Michigan Compiled Law and United States Code. In addition to evaluating compliance of the proposed rules with existing law, I evaluated the proposed rules for any gaps that needed to be filled in order to ensure the accuracy and integrity of our elections based upon my experience.

During my public testimony, I will proceed to provide a summary of my findings.

Finding #1: The proposed rules for electronic voting systems have insufficient scope and rigor to ensure the accuracy and integrity of our elections as required by our Michigan Constitution.

Finding #2: The proposed rules appear to be biased towards diminishing the rights of voters and local election officials in favor of increased control of elections and election records by the Michigan Department of State. Once again, our Michigan Constitution requires that all voting rights be liberally construed in favor of voters' rights in order to effectuate its purpose.

Finding #3: The Michigan Department of State appears to be engaged in deliberate and repeated abuse of the rule-making process to subvert the integrity of our elections

In support of Finding #1 regarding insufficient rigor to ensure the accuracy and integrity of our elections, I submit the following observations:

In a ruleset specific to electronic voting systems, there is notably zero mention of best practices regarding security protocols for electronic systems. There are quite a few references to the use of seals to preserve the integrity of physical records such as ballot containers, but zero references to their digital record equivalents such as user account, device access or network security protocols.

In a ruleset specific to electronic voting systems, there is notably zero reference to secure digital record transfers for systems designed to connect to the internet as evidenced by election official communications, election procedure manuals, contracts between electronic voting system vendors, my own personal observations as a Certified Microsoft Small Business Specialist, and even the Department of State's own website where it encourages clerks experiencing difficulties with internet connections to contact their friends at Connected Nation.

In a ruleset specific to electronic voting *systems*, there are rules pertaining only to the use of two components of that system – hand-fed polling location tabulators and voter accessible devices.

The ruleset ignores any usage guidance for batch-fed tabulators, electronic pollbooks, adjudication equipment, vote tally equipment, networking equipment and election night reporting.

In a ruleset specific to electronic voting systems, the requirement for end-to-end system testing replicating how this critical infrastructure performs on election night is prefaced with the words “if practicable”. So, we only need to test the full system if it is convenient. It should be noted that the 7,060 vote flipped experienced in Antrim County would have been detected if end-to-end testing of the election day configuration had been performed.

in a ruleset specific to electronic voting systems, there seems to be an inexplicable focus upon the security of physical records NOT digital records.

In support of Finding #2 regarding a bias against voters’ rights, I submit the following observations:

Many voters have expressed concerns with the integrity of mail-in voting, yet the ruleset fails to provide any substantive guidance on the components integral to the mail-in voting process such as batch-fed tabulators, electronic pollbooks, and adjudication equipment.

Many voters have expressed concerns with the integrity of our voter rolls. Investigators have shared evidence of dead voters, people who have moved out of a given jurisdiction, people registered illegal addresses such as businesses or apartments without an apartment number, or people who are not American citizens – all being listed on our active voter rolls. The July 2024 QVF, which is statutorily required to maintain voter history records for a period of not less than 5 years, shows that there were 302,380 more ballots cast in 2020 election than there were voters. Against this backdrop, the proposed ruleset governing electronic voting systems provides zero substantive guidance on the use of electronic pollbooks and the state Qualified Voter File.

Many voters have expressed concerns with vote tally anomalies, yet the ruleset fails to provide any substantive guidance on the components of the vote tally chain of custody including vote tally equipment and election night reporting.

Many voters have expressed concerns with internet connections, yet the ruleset makes zero references to network security protocols regarding either official or unofficial record transfers.

Many voters have expressed concerns with fractional voting, yet the ruleset makes no reference to the need for electronic voting systems to store and report vote tally data as integers not fractions.

Voters are guaranteed the right to an audit of statewide elections to ensure their accuracy and integrity. In order to accomplish any such audit, any auditor must be provided with an audit trail sufficient to verify the accuracy and integrity of our elections. The startling gaps in the audit trail enabled by the proposed ruleset for electronic voting system are either the result of gross negligence on the matter of securing a critical system of our nation’s infrastructure or indicate a deliberate attempt to enable election fraud.

In support of Finding #3 regarding a pattern of abuse of the rule-making process, I submit the following observations:

Michigan Secretary of State Jocelyn Benson has been found by seven different courts to have issued unlawful guidance regarding elections. Seven. During oral testimony on October 3, 2023 in

the O'Halloran v Benson case before the Michigan Court of Appeals, Department of State lawyer Heather Meingast demonstrated her client's flagrant disregard for the law in the following concerning statement:

"I don't think we would want to create a war between the branches and if there was something telling us to do something and we thought it was OK, we would probably do it. But if ... this isn't something that we can really do because we couldn't really control it or it's a bad idea we might just choose not to do it you could leave that statute sitting there and we could continue to issue instructions and give guidance and somebody would probably sue us."

Voters were forced to sue her multiple times at their own expense, often AFTER the impact of her unlawful guidance was already inflicted upon the conduct of our elections. This blatant disregard for the rule of law is concerning. This behavioral pattern underscores the need for a professional review of these proposed rules for electronic voting systems BEFORE they go into effect.

Electronic voting systems are complex. We rely upon the integrity of regulatory bodies to secure these complex systems. These regulatory bodies in turn delegate this responsibility to non-government organizations with personnel that have the necessary skillsets to evaluate the security of such systems. These NGO's are not subject to any substantive oversight. NGO's, including electronic voting system vendors, are not subject to FOIA requests for example. This oversight is made even more problematic by the fact that the contracts between government bodies and electronic voting system vendors feature illusory provisions. These illusory provisions prevent examination of the design and implementation of these systems by all but a select group of election officials. Meanwhile, more and more of our election processes are being ceded to these NGO's because of the complexity of elections featuring electronic voting systems.

During my aerospace engineering career, I was responsible for designing elements of the International Space Station life support system. Since the lives of the Astronauts depended upon the effectiveness and integrity of my design for their very lives, my systems were viewed as "critical infrastructure". There was a significant degree of rigor applied to the design, analysis and testing of these systems. We conducted rigorous failure modes and effects analyses, conducted rigorous component-level and system-level tests based in large part upon these analyses, and enacted strict configuration control practices to prevent tampering with the integrity of our flight articles.

Our election systems have also been designated as critical infrastructure. This proposed ruleset, however, does not come anywhere close to the rigor needed to ensure the accuracy and integrity of our electronic voting systems. In fact, this proposed ruleset for electronic voting systems does not come close to providing the level of security evident in the regulations for children toys much less what is needed for an element of our nation's critical infrastructure. We need to do better. The 126-page report that I submit to you today is my attempt to assist the Michigan Department of State achieve its constitutional obligation to ensure the accuracy and integrity of our elections.