

Remarks about election quality and certification pursuant to HB 1155 written for the Colorado Secretary of State Feb 22, 2008 for the public record by Harvie Branscomb, (email comments to harvie [at] media [dot] mit [dot] edu)

**A. Remarks originally prepared for the hearing pursuant to HB 08-1155:**

Representative Paul Weissman at the House State, Military, [and] Veterans Affairs Committee in regards to HB1155 said:

“I wouldn’t support a bill if it was just a front to provide public confidence.” “I fundamentally agree that the provisions of the sunshine law ought to prevail.”

Representative Weissman introduced an amendment into HB 1155 which was passed and signed into law to the effect that the Sunshine and Open Records Laws would apply to the voting system recertification process. In the entire process dating from April 2007, there have been two instances of what might be considered transparency or public accessibility offered by the Secretary of State. Sadly, this meeting on February 21 is one of them. The other was a 5 day demonstration of the counting of a handful of votes at which some of us in this room were present. Members of the public provided considerable testimony at that time in the form of questions but were cut short by staff of the Dept. of State. Those questions were not answered at the time nor were they answered subsequently. 4 video cameras recorded each of these 5 days consuming approximately 120 hours of time. We presume that the 120 hours of video is part of the apocryphal hundreds of hours of video which represents the still secret record of the certification process about which we are presumed to be having a meaningful discussion today. There is no decent reason for the time which has been consumed in attempting to redact supposedly proprietary material from this record, much of which was already opened to the public in the form of Al Kolwicz, myself and a few other people.

In addition to the entire testing process within the SOS office, glimpses of which we occasionally hear about through leaks made to the county clerks, there were several meetings in the past months at which numerous clerks and members of the office of the Secretary of State including the Secretary himself were in attendance. One such meeting took place on January 4 at the office of the Denver City and County Clerk. This meeting was attended by Secretary Coffman and Deputy Secretary Hobbs and approximately 40 clerks or county election officials. I stood outside that meeting requesting entry to observe and was refused by what I was told was a vote of the attending membership of the Clerks Association, whom I was told deemed it a private meeting. It was clear that this meeting was for the purpose of discussing the impact of the Secretary’s decertification decision of Dec 17. Again on January 7 I entered a room at 1700 Broadway where about 20 Clerks were meeting with Deputy Secretary Hobbs and other members of the Secretary of State office as well as representatives of a vendor. I was asked to leave that meeting by Deputy Secretary Hobbs and I left after advocating the need for public transparency of the election planning and management process.

The Colorado Voter Group made a written request to be a participant in the testing which was to be done pursuant to HB 1155. This request was not responded to. Are we to presume that sufficient information to satisfy the public’s need will be provided to us during the 4 hours of presentation/discussion today?

If elections cannot be designed and planned in public then what portion of government’s role can be done in public? It is embarrassing to be a citizen of a state which can not reveal the inner workings of its discussions about elections.

Numerous attempts to activate the Sunshine and Open Records Laws have been made and rebuffed. The secrecy with which the Secretary of State has treated the certification process does not comply with the voiced intentions of the legislature and in fact it is contrary to law. It is also unreasonable and damaging to the quality of our elections. The current system is broken and in need of major change. I ask the Secretary to address these concerns in his decisions which represent the most powerful authority over Colorado elections.

Harvie Branscomb  
Eagle County Canvass Board  
Trustee, Colorado Voter Group

## **B. Reactions to the 4 hours of testimony from the Feb 21 meeting.**

- 1) The procedure being followed has numerous defects which divert it from the goal of providing for a quality election, which is presumed to be the final goal. A concern remains that procedures may still be designed to achieve the faux goal of voter confidence before the goal of enhancing quality is considered:
  - a. The testing board is trying to follow rule 45. Rule 45 is already unable to prevent problems that could be encountered in elections or to find every bug in an election system. Rule 45 such as it is, and the work of the testing board ought to be respected. Additional testing at the election jurisdiction itself: acceptance testing sufficient to satisfy local critics, hardware testing with known election data to give confidence in individual equipment performance, LAT testing with sufficient precision to provide confidence in ballot design, audits of actual election results with analysis of chain of custody, and finally an actual examination of voter intent via a full hand count in the case of a close margin election are all needed to supplement the certification process. All of those processes in Colorado currently have defects or deficiencies and beg for improvement in SOS Rules.
  - b. I understand that the Secretary of State told me personally on Feb 21 that it is the legislature where the remedy for failures in rules will be found. His specific statement to this effect only postmark the inference we have developed in experiencing the lack of responsiveness of the Dept. of State to our requests for improved rules on tests and audits. We ask the Secretary to notify the Legislature that it should proceed to provide additional guidance in detail on election testing and auditing in the form of future legislation.
  - c. The clerks are uniformly attacking or questioning the procedures and conclusions of the testing board which are, across the board to deny certification. The testing board has no opportunity to respond in a constructive dialog within the view of the public and furthermore, there is no one advocating on behalf of the testing board. This is not a constructive dialog, rather it is a set of often opposing and generally inconsistently supported statements by clerks, vendors, testing board and public advocates who in particular have been separated from many of the facts which they would need to make many of the needed arguments. The public assumes that a more cogent discussion will take place with the participation of the Secretary. It is that discussion as well as meaningful testing which the public knows it deserves access to under the law as expressed in HB 08-1155.
  - d. For some reason, the clerks are not appreciative of the testing board for previewing the potential errors which will occur in operating voting system, including worst case testing with less than fully trained personnel, especially problematic ballots, challenging conditions, etc. This is a tactical mistake, and the quality of the state's election in 2008 and 2009 will probably suffer for it. For some reasons, the clerks presume that current pre and post election tests and audits are sufficient to overcome weaknesses in the certification program. Those pre-election tests are imprecise, and the audits are not usually performed on actual election results. The hardware test is completely ineffective. The acceptance test is non-existent or performed by the vendor. Tests with unusual marks are not usually performed in LAT. Certification tests would naturally be assumed to have undertaken such tests. It is irresponsible for clerks to criticize and argue to minimize the importance of these state tests and their results.
- 2) There are many and various claims of clerks that they have "never encountered any" problems using their equipment in elections. This is not believable. Anyone who works in or near a clerk's office knows this. Machines and procedures are not designed with convenient error reporting in mind. Even so, errors in elections are commonly known to clerks but rarely widely broadcast. Procedures are avoided which would tend to

produce further evidence of problems in elections. Tests are kept at minimum level of effort. Audit logs where they are present are rarely looked at. There is no statewide process or repository for election problems or solutions. Where would we go to learn what problems have occurred?

- 3) I agree with clerks that the certification tests should be performed in the county clerks office setting and in a set of simulated elections. This would vastly improve the meaningfulness of the tests. Currently the tests are of individual pieces of equipment and software taken out of context. This makes no sense.
- 4) The Colorado recount statute offers 3 loopholes to avoid hand counting of ballots. It is highly unlikely that a statutory recount in Colorado would be performed by hand. We have heard testimony that ballots will be examined during the recount process. I seriously doubt this. Perhaps in a few counties an examination of ballots prior to recounting by machine would be done. If this physical examination is to be done, then why not actually sort the ballots by outcome at the same time. The time it takes to examine a ballot for stray marks would be no longer than the time needed to sort the ballots by outcome of a close race. This would accomplish the manual count which the statute almost calls for, except for the three loopholes.
- 5) Many clerks referred to a phrase as if it is a standard but which is not in Colorado Statute: they told us that ballots which are "marked properly" are read and counted accurately by machines. This is probably the case. Unfortunately there is a percentage of our population who finds it difficult to "mark properly" the ballots. These voters must not be disenfranchised by their failure to express their vote in the manner which is specified by the arbitrary restrictions on voter expression implied by the design of the machine and the ballot.
- 6) My overview of the HB 1155 hearing is: the voting systems were tested under Rule 45 for a particular set of possible problems, but not all problems were tested. Also not all systems were tested. For the subset of possible problems tested for, all machines were determined to be deficient for a wide variety of kinds of reasons, bureaucratic as well as functional. A specific subset of these problems was identified by the SOS as "major" and referred to in the decisions of Dec. 17<sup>th</sup> (without revealing the underlying detail which would perhaps justify such a value judgement on his part). More troubling, we heard that the Secretary may have turned over this decision to the Attorney General to decide the outcome of certification not by technical considerations, not by political considerations and not by quality considerations but rather from the point of view of ability to defend against law suit brought by the public, where such a law suit is perhaps the only effective remedy the public has. Having made the decision, a process was offered to allow if not encourage the pursuit of appeals of the Dec. 17<sup>th</sup> decision both in forms "formal" and "informal" and simultaneously and in parallel in rushed manner allowed through special considerations of HB 1155. Clerks then created arguments in regards to these problems considered "major" and presented these arguments in public on Feb. 21. Clerks have access to information to support their arguments because of their special position of authority over the voting machines and election materials. There is no authorized representation on behalf of the public with similar access to information to make counter arguments. Some representatives of the public nevertheless appeared to make arguments primarily of the nature of the illegality or inappropriateness of the procedure being followed.
- 7) The following comments then relate to the specifics of the problems identified as major on which the clerks mounted their arguments. ESS- the GAO report was found deficient in a report from Florida which is located here: [http://www.floridafairelections.org/PressReleases/PR2008-02-12\\_GAORreport.pdf](http://www.floridafairelections.org/PressReleases/PR2008-02-12_GAORreport.pdf)
- 8) Problems with stray marks on Hart systems are probably not limited to Hart systems. I am aware that Premier systems are susceptible to similar errors of recognition as votes of marks which are not intended to be votes. These marks come in the form of voter created, as well as those resulting from spills, insects, and the ballots themselves transferring toner or ink from one place to another including in the form of smudges and bleed-

throughs. To achieve a necessary level of quality it is crucial to have a preventative measure to avoid having an alteration of election outcome caused by improperly identified marks. In addition, these unidentified marks may actually be expressions of voter intent. All ballots which contain marks of any of these types must be examined by election judges. If machines are to have the first access to the ballots, then they must be extremely sensitive in diverting questionable ballots to human judges. This process must be carefully tested because we would like every such ballot to be treated by human beings. The alternative, expecting the voter to conform to the requirements of the machine, is simply unacceptable. The “not voting” option on each contest of the ballot would help to identify stray marks which are likely to change the outcome of the election. The “not voting” substantially removes voter intended undervotes, and means that the effect of stray marks would more often be caught as overvotes which do get election judge or voter attention. This is a very beneficial tool and remedy for a weakness of the paper ballot/optical scanner combination.

- 9) Steve Pearson testified to “insufficient detail” in the still secret documentation of the tests. This puts us on warning that the 120,000 pages and 3,200 hours of documents may not be conclusive. It has been a natural concern that the SOS testing process might be producing unnecessary bulk without having the necessary precision and detail included. Security by obscurity may be an accidental side effect of the bulk of the documentation. Already the bulk has resulted in totally unnecessary delays for redaction of material which could have been avoided by insisting that any proprietary material be flagged in advance, which is common practice.
- 10) We were under the impression that the SOS process was devoid of dependence on the vendors, but this has now been shown to be false. Apparently teams from ES&S were brought in to adjust voting machinery in an effort to achieve a successful test outcome. This is inauspicious from the perspective of any county which is going to be asked to operate this equipment without the potential for a visit from the manufacturer.
- 11) The inclusion of the EVEREST report in the supplemental overview document for ES&S is perhaps indicative of a need for additional external testing to take place, or at least an acknowledgement that external testing is producing information which the Colorado test is not producing. This should also be considered as evidence that the Colorado certification process is not conclusive and this leads to an understanding of the need for enhanced test and audit procedures.
- 12) In the Hart overview document we find the apparent admission that the baseline for accuracy of the scanner was to have been a successful set of sequential scans of ballots. This suggests that the ballots to be tested were not externally examined and counted by a hand count process to determine the voter intent contained on those test ballots (which would be done according to the statutory requirements for counting of ballots). I will be expecting a response from the test team as to the exact procedure for determining the base line for testing accuracy of each optical scanner and DRE and Ballot Marking Device. This is absolutely crucial to the functional definition of “accuracy” in any representation of quality as a result of these tests. Please do respond to this matter at your earliest convenience.
- 13) For Sequoia we learned that the VVPAT is a crucial element in the reporting of the audit log which suggests that the audit log is provided in manner which is not subject to easy distribution for examination and evaluation. This is a matter of considerable concern. It is also an example of placing an unnecessary obstacle in the way of sharing information about problems encountered.

### **C. General observations about the state of elections in the State of Colorado**

- 1) Colorado's certification rules have never been shown to be the "most stringent"  
10,000 max ballots tested- but easily 100,000+ might be counted- Rule 45 is not testing to election scale  
what count is actually used as the base line for accuracy? two sequential machine counts? Should be a hand count  
we can't depend on only the certification tests, we need pre and post election tests and audits with precision and teeth
- 2) Certification tests and audits and close election recounts all require accurate hand counts  
when elections are close enough that machines can never be precise enough, hand counting must be done  
real audits will give confidence derived from mathematics, not confidence based on good PR  
hand counting can and must be done accurately- we need practice tests, and regular audits of hand counts as well  
human intervention in voting and counting is not problematic, it is essential to quality
- 3) The current regulatory framework is running in defensive mode to avoid any law suit  
this cannot produce a sensible result or in the long run confidence in an election  
administrative remedies for failures of transparency must be created to substitute for law suits  
public oversight and involvement is crucial at all times even if inconvenient for election officials  
public involvement in canvass boards is a key element and must be revived and enhanced
- 4) Political decisions and politicians must not influence let alone control technical decisions about election technology  
The law allowing the Secretary of State to define "substantial compliance" is inappropriate and potentially dangerous  
The Secretary of State needs oversight and technical support from the public and elsewhere besides the AG  
We must depend on decentralized testing and auditing with public involvement to correct for politicized decisions

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### **D. Extensive comments on first reactions to the overview documents provided Friday Feb 15 at 6PM.**

1) The ESS discussion relates primarily to the identity and security of the server database into which results are transferred during the tabulation of results from various devices. There are presumably new conditions on use of ESS software which will mitigate the major deficiencies found by the testing board. The identity, naming and security of the master database is a very interesting area for discussion in elections. I have learned that all the efforts originally made by vendors to isolate the test from the actual election database actually serve to limit the meaningfulness of any test, and to cause election officials to work around limitations placed in the software in order to test the actual election database. There is only one real solution to this problem... which is to never use the "test" mode or "test database" provided by the vendor or built as a workaround. There must be two or more identical copies of everything created equally and at the moment before the test (LAT) is commenced, a random choice must be taken to decide which set of data to use for test and which to use for election. This insures that the test is meaningful and that the election is separate from the test. Ideally a piece of software would manage this separation of identical parts, allow the timely selection and then isolate the test from the election, keeping it for any further audit if necessary. All names and all choices other than the one just mentioned should be identical between the test and the election.

This topic is not treated in the ES&S overview document.

It is revealing that the letter admits that ES&S after 5 deliveries of sets of programming and 3 sets of ballots none of them worked together and it took until after Dec 17 to get a set of ballots and programming to match. Obviously the process of programming the ballot was not being tested at all- which makes one wonder again about the 'stringency' of our Colorado "system" test. Surely the ballot programming process should be subject to certification in Colorado.

Likewise there is a clear admission that the maximum number of ballots attempted to be scanned was only 10,000 which would not lend confidence for a central scanner which processes far more than 10,000 ballots in a medium sized or large county. Note that the server software must accumulate 100s of thousands of counts in large counties, and this accumulation does deserve to be tested at and beyond this scale. Was it?

The magnet issue is probably taken care of by a cover over the PEB slot. However the report also identifies that a supervisor programmed PEB available on the open market can recalibrate a touch screen. This is much more worrisome. I believe it is the case that the PEB is carried by the voter to the device with the appropriate ballot style stored within... and thus switching the PEB could be a problem with or without the cover. The brief overview offered by this letter and the accompanying several megabyte report is completely inadequate to convey the risk or potential for mitigation of these risks.

And then there are the problems which the Secretary has not deemed sufficiently interesting to consider "major" and perhaps those issues of which they are simply unaware.

## 2) Sequoia

In this letter the only problem deemed "major" is that of misfed VVPAT rolls which would cause denial of service or lost verified paper records. It is mysterious how this following statement is not a non sequitur:

Since the December 17 decision, Sequoia has been able to demonstrate the systems ability to conduct a print test on the V-VPAT whereby creating an audit trail that logs use of the machine, logs security violation, and ensures a verifiable paper audit trail.

the non sequitur begins at the word "whereby". I cannot see how the provision of a paper roll record creates an audit trail.

the letter goes on to say:

The print test is crucial to ensure that the voting system complies with requirements of § 1-5-615, C.R.S., that electronic records of votes have corresponding V-VPAT records, and that the system saves and produces records necessary to audit the operation of the voting system. The print test provides the necessary record for a proper audit that can verify that all votes are captured and recorded correctly, and that a full audit of any security violations can be captured.

How it is that the print test can "verify that all votes are captured and recorded correctly and that a full audit of any security violations can be captured" is unimaginable. Is the VVPAT printer the only way to obtain an audit report of events from the device? That is what is implied here... if so, the accessibility of audit logs is near to nil.

It is interesting to note that the test board is moving in the direction of accessibility of real event audit logs. This is a real step forward. If the event audit logs could be made accessible to the canvass boards, and eventually to the public, we would get much faster action on improvements of technology over the long term. The SOS ought to provide for this transparency on its own accord.

## 3) Hart

The Hart letter is much more interesting and revealing.

Note paragraph four, final sentence:

The same ballots were then run through the Optical Scanners a second time in order to establish a baseline to use for verification of the accuracy of the equipment. In the process, a result different from the first scanning was produced.

This reveals to us something about the process of the testers. Apparently their baseline was to have been two identical results from sequentially scanning a set of ballots twice. If I were conducting the test, my baseline would have been set by a very careful hand count of the marked ballots, with a copy of CRS sitting next to my desk, to interpret the significance of incomplete and defective marks. This tells us that it was only the discovery of a lack of repeatability or reliability of the scanner which concerned the SOS. They use the word accuracy here incorrectly. All they could hope to achieve from a sequential counting of the same set of ballots is a measure of reliability or repeatability. This is no laughing matter, for we will find that the entire stack of cards which is the foundation of our regulatory framework in Colorado is resting on a similar corrupted foundation. We may have no effective baseline from which to measure real accuracy of the counting of our ballots. If so, we cannot say that systems "count accurately".

Then we are told that 1200 ballots were "producing differing results". Were these results compared ballot by ballot? Hart may provide this capability through the CVR but we are not told what process was used for this determination. Did all 1200 show this differentiation... was that 1200 out of 10,000? We can believe from what is written that the system was determined to be unreliable, which would certainly detract from its accuracy. We are not anywhere here learning about accuracy of determining voter intent. Any improvement in repeatability which is achieved in mitigation will have only partial bearing on the actual accuracy of the vote counting function. The final sentence of paragraph 5 is also very revealing:

Even if the system was demonstrated to count all mark patterns consistently, marks that could be characterized as "unnoticeable" by visual review were registered as a valid vote.

This sentence does address voter intent... it is saying that this system likely counts votes where no voter intent is visible even in a pre-scanning hand scan of the ballots. This observation makes the likelihood that a human preview of ballots prior to scan will eliminate at least one of the problems found.

In paragraph 7 we see a correct reference to "inconsistent results" rather than inaccuracy. It is a concern that we are to believe that 50 different types of marks are representative of the range of possible marks which voters might make. When you look at Table 1, you may see cause for greater concern when types of marks are seen to be subdivided by distinctions like which corner of the field the mark is located in... not likely to be a significant independent variable.

Paragraph 8 takes an ill-advised logical leap:

The Testing Board has identified the marks and drafted procedures to be used by the county to ensure that ballots do not contain extraneous marks and accuracy is ensured. The identification of these marks and proper handling by the counties will increase the proper tallying of ballots and the reporting of accurate and complete results.

Note that "do not contain extraneous marks" and "accuracy is ensured" are logically equated here in a causal relationship. I would want to see the plan for the test which "ensures accuracy" of this voting system. "Increase the proper tallying" is certainly a mind twister but I suppose "increase the reporting of accurate and complete results" is even less likely a result of identification of marks.

For the eScan precinct count scanner, because the ballots are inserted into the scanner by the voter at the precinct, a pre-sorting procedure for the voter to follow is not practicable.

This sentence admits that the human intervention by knowledgeable election officials will be impossible in precinct scan, and so the SOS will instead advise a framework of voter education to warn them about the potential significance of "unnoticeable" marks.

This topic is of course the weakness and the strength of the paper ballot and scanner combination... the system must be able to fail to count a vote in case of a mark which does not represent voter intent, and it needs to notify the voter in the precinct scan case. Likewise, in central scan the system must always refer the questioned ballot to election judges for their evaluation. The fact that this election system is capable of recording these unusual marks is a great advantage and a result of the flexibility of the analog recording medium of paper. A voter who cannot due to spasms correctly vote

(either on a touch screen) or with machine required accuracy into the correct target bubble, can anyway record something a human will recognize as a vote. This is key to the success of enfranchising all.

Paragraph 10 is of considerable concern:

Consequently, the Secretary requested the Testing Board share other possible procedures to diminish the potential problems associated with extraneous marks on ballots to be counted by Hart's eScan and Central Count Scanner. The Testing Board submits the attached procedures, but makes no formal recommendation regarding the use of the procedures due to the **introduction of a human process** and the necessity in this instance to override existing rules regarding ballot processing.

It is the use of the phrase "introduction of a human process" which gives me concern. There can be no question that the voting system is a combination of equipment, procedures and people working together, and no part can survive without the other, except that the machines could conceivably be removed from this triangle without losing the election outcome. The "introduction of a human process" should be of no great concern to anyone who has a reasonable perspective on election management.

Diminishing the effects of extraneous marks on the misreading of ballots by the equipment is a favorable goal and should be supported. Acknowledging that accuracy of capturing voter intent is part and parcel of identifying extraneous marks and referring them all to human judges is also crucial. Apparently the Hart system is not good at making this distinction, and I am aware that other optical scanners which are not subject to recertification in Colorado are as well.

The Hart letter is not combined with an edited overview document, so all of the previously provided "conditions" on recertification continue to apply. These include optional methods for determining batch sub tallies for auditing, and a tiered audit table based on victory margin which is apparently arbitrarily determined and poorly constructed to avoid some obvious examples where efficiency in auditing could have been obtained. All the experts in statistics I have communicated with are dismissive of the strange values in the table for audits provided by the test board in the conditions. But in any case, these remain in all four documents.

The acknowledgement of the need for actual audits of election results in case of central scan is a great step forward for Colorado election accuracy and confidence. We must work with the stake holders to mold the SOS required conditions into something both workable and statistically meaningful in providing mathematical confidence in our election outcomes.

Also there is a scheme presented for hand and eye scanning of ballots prior to central counting which might ameliorate part of the problems identified by the test team, other than the "unnoticeable" marks. In any case an audit involving a hand and eye counting of a randomly selected collection of ballots sufficient to provide statistical confidence in the outcome is another way to mitigate the known weaknesses of optical scanners to correctly capture voter intent. The hand counts required for such audits vary by victory margin, but include 100% hand counts above a threshold which depends on the number of audit units in the total vote, and the relative size of them, as well as the victory margin in the race. The SOS table in the conditions appears to reflect only a partial awareness of these mathematics.

Note point 7 in the Central Count Pre-Scan Sorting Procedure which says:

At the end of ballot processing, a complete election database audit log shall be printed and saved for the canvass process.

Here again I see a reference to accessibility of audit logs and the canvass process which includes of course the Canvass Board which has at least two appointed citizens on it. This is a welcome infusion of transparency and should be encouraged.

The pre-scan process itself is a reasonable approach to take although it substantially mitigates the benefit to be obtained from machine counting in the first place. The primary and most critical function of the machine would be to

identify the ballots which need human observation... but here we have the humans identifying the ballots which are consumable by machine. There is no basis for objection to this concept other than inefficiency. It might be that the humans performing this pre-scan could also sort the ballots into piles by outcome and simultaneously do a 100% hand audit on one of the most important races. If I were Clerk & Recorder of a county, that is what I would do.

In general then we see that the SOS continues down the path of seeking audits which check the actual election outcome by hand counting verified (verifiable?) paper records which MUST exist... and advising ways to actually obtain sub tallies of election results for this purpose as well as finding ways to avoid situations in which ballots which cannot be properly scanned by machine are handled by duplication boards. This presumably replaces rules which call for recounts instead of audits. All of this is very good. A statistically significant audit would add immeasurably to what the Secretary's office has recommended.

The citizens of the State would greatly benefit from having personnel at the SOS office who understand that accuracy is a function of ability to capture voter intent in the difficult cases. It is hard to believe that this group at the SOS understands that principle. I have heard lots of indications that the SOS has been advising clerks that they may not get involved with determinations of voter intent until a recount. I think this is quite inconsistent with statute.

We can presume that the SOS will discuss the Diebold Premier attempt to remove conditions on recertification at a later date. There is a lot of time before these audit requirements will result in real work by the clerks... so we can expect some rulemaking during the year to somehow connect the "conditions" to existing statute, new statute, and rules.

I am hoping for a drastic rewrite of SOS rules on testing and auditing, It would be preferable that this rewrite take place this year, but in any case before elections in 2009.

Harvie Branscomb

## **Appendix:**

Link to the report by the Florida Fair Elections on the Sarasota undervote anomaly which casts doubt on the GAO report and addresses additional information on that topic:

[http://www.floridafairelections.org/PressReleases/PR2008-02-12\\_GAOReport.pdf](http://www.floridafairelections.org/PressReleases/PR2008-02-12_GAOReport.pdf)